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Hearing on Child Support

Women Legislators Caucus

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CALIFORNIA LEGISLATURE
WOMEN LEGISLATORS CAUCUS
SENATOR REBECCA Q. MORGAN, CHAIR

Hearing on
CHILD SUPPORT

Thursday, August 16, 1990
State Capitol, Room 112
Sacramento, California

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HEARING

ON

CHILD SUPPORT

Thursday, August 16, 1990
State Capitol, Room 112
Sacramento, California

WOMEN LEGISLATORS CAUCUS

Senator Rebecca Q. Morgan, Chair
Assembly Member Jackie Speier, Vice Chair

Senator Bergeson
Senator Killea
Senator Vuich
Senator Watson
Assembly Member Allen
Assembly Member Bentley
Assembly Member Eastin
Assembly Member Hansen
Assembly Member Hughes

Assembly Member Hunter
Assembly Member La Follette
Assembly Member Mojonnier
Assembly Member Moore
Assembly Member Tanner
Assembly Member Waters
Assembly Member Wright
Assembly Member Roybal-Allard

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REBECCA MORGAN: I am Senator Becky Morgan and this year I am Chair of the Women's Caucus. Perhaps some of you are less familiar than others with the Women's Caucus. In 1985, when there were finally fifteen of us in the Assembly and Senate combined, we did form a Women's Caucus and came together that year around the issue of insurance for child care providers. That was the year in which homeowners were finding their insurance canceled because they were taking care of children. I think in coming together and working with the insurance companies and getting some legislation passed we, in fact, did have an impact on child care providers. Since then we have dealt with a number of issues, from Pap smears and lab tests to child support.

This hearing, which deals with child support, comes out of a concern that several of us share. Before I start with a few brief comments, I would like to introduce Marge Chisholm sitting on my right, who is a consultant in my office. She handles my child care and development committee and has assisted the Women's Caucus, which does not have a staff. Sitting on my left is Diane Manassero, who is my personal secretary and, because I am Chair this year, has been staff assistant to the Women's Caucus.

We are convening this hearing today to gather information on the problems within the present system of child support, to try to address some of the policy questions that may be answered, and to seek ways to improve that system. The Senate Office of Research has prepared a briefing paper which is in the packets, which are available at the front table, and they have also listed some of the major research and policy questions which they believe have yet to be answered. I think that you will agree that they have done a thorough job and deserve recognition for their hard work.

What you are going to hear today are perhaps some shocking statistics, perhaps some emotional stories and, hopefully, some suggestions for improvements. I think every parent, I believe, has an obligation to support their children. California law, in fact, requires that parents, whether they are married, divorced or were never married, must support their children. The state of California, I think, has both a fiscal interest and a moral duty to ensure that that law is upheld. We don't know enough about child support and I think additional research is needed. We also know that the federal government is placing more and more pressure on states to increase their child support collection efforts. In fact, in April of this year they notified California of their intent to impose fiscal sanctions if we don't do a better job of complying with federal laws pertaining to child support. The amount of the threat from sanctions is unclear, but they are talking about amounts of one hundred million dollars. As they

have said, child support enforcement, to a large extent, affects the problems of welfare in the United States. I agree that what we are facing when child support is not paid is the condition of the children in particular. It is also, I believe, important to government, because I believe that a lot of the cost of government around subsidized child care, subsidized housing, the needs that government is asked to come in and pick up, result from a parent who is not carrying their fair share and providing help for that family. Sure, there are difficult policy and fiscal questions that must be answered and research to be done -- like how much does it actually cost to raise a child in a divorced or single parent family; what is an adequate standard guideline for the amount that should be awarded; what impact does joint custody and visitation have on the cost of raising the child. I have particular interest in that as the author of the bill two years ago that said custody should be awarded based on the best interests of the child. We were finding that judges thought the Legislature back in the late seventies, I believe it was, were advocating for joint custody. I've heard horror stories about what was happening to children as they bounced from one end of the state to the other and were trying to go to school in two places in any given month because joint custody had been awarded. We do now have that in place and, hopefully, I would welcome comments on how that is working. We are interested in finding out what amounts the courts are actually awarding. We have some statistics, but the truth is that, in cases where there is a private attorney or the parents are acting as their own attorneys and settling outside of court, we have no information about what kinds of child support is being awarded and whether or not it is being paid. Many of the statistics that we have, about forty-sixty percent being paid is really only what we can capture in those instances where it goes through the courts.

We are interested in what effect a second family has on the amount of the awards and what impact it should have and how it should figure into the awarding of child support.

We have here today eight exceptional people that have been willing to testify. I think that, in looking down the list of people that we have been able to put together today, you will see that we have tried to cover a fairly broad spectrum from the legal system to a parent, to organizations that are involved in policy setting. We hope to have time at the end to hear from members of the audience who wish to testify. I need to have you give your name to one of the sergeants here in the back of the room so that I can call upon you at that time. The sign-up sheet is on the table and the sergeants will take care of that.

You may wonder why I am sitting here by myself, knowing that there now nineteen women in the state Legislature. The Assembly just adjourned. I know some of the women from the Assembly had intended to come by. The Senate is still in session. If, in

fact, I have to leave to cast a vote, please know that this is being recorded today so that your testimony will be on record and that Marge and Diane will be here to make sure that I hear what is said. I am hoping that we will have at least one legislator at all times, and we are expecting more before the afternoon is up. Again, I thank you for coming, and if you would like to receive a copy of the manuscript from this hearing, there is a sign up sheet here on the front table.

Let's get started. It is my hope that the eight people that are testifying will have about ten minutes worth of comments, have time for questions and then will be available for questions from members of the audience and members of the audience will have some time to talk with us before the afternoon is out. In starting that process, let me first call upon Sheila Keuhl who is the managing attorney for the Southern California Women's Law Center. Sheila, I'm sure that you have lots of things to tell us about what is going on in Southern California which probably is somewhat representative and somewhat unique.

SHEILA KEUHL: Thank you, Senator Morgan. I very much appreciate being invited to speak to yourself and to the Women's Caucus electronically and through a transcript. I am not only one of the managing attorneys of the Southern California Women's Law Center, but also I was a member of California's Gender Bias Advisory Committee to the Courts. I chaired the Subcommittee on Domestic Violence. But, as you probably know, we adopted, I think, upwards of sixty-eight recommendations. Many of them were in the area of family law. They were adopted unanimously by the entire Gender Bias Advisory Committee. We presented it to the Judicial Counsel. We have reason to believe that they will look upon the recommendations quite favorably and they will decide in November whether or not to accept which of them. Many of them go to the issue of child support and, as I speak about this issue, I will attempt to intertwine those recommendations from the Gender Bias Advisory Committee in what I think the Senate and the Assembly and the state of California ought to do about this.

I have been asked to give you an overview about child support in the United States and in California -- how it works, what's good about it, what's bad about it, what we would change, and the Gender Bias Advisory Committee report in ten minutes. So, it will be a tribute to my generally positive attitude that I actually believe I can accomplish that in maybe eleven minutes. We'll try. Women and children in California are poor. Many of them are hungry. Some of them are homeless. Most of them live lives, as one author once said, of quiet desperation. Many factors combine to enforce this poverty: job discrimination, low pay, lowered expectations from educators, lack of training. However, by far, the greatest cause of poverty among women is their unequally weighted responsibility to care for and support children. This factor alone, combined with a general lack of payment of child support by fathers, and the cost and

unavailability of child care and enforcement mechanisms for child support, keep women on welfare and in abject poverty. Call many of them the traditional poor. Their mothers were poor. They had babies while themselves still babies. They have no jobs and fewer prospects. Call the rest of them, however, the newly poor. They did not come from poverty because they came from two parent homes. But now they are themselves single parents and poor. Camus said "In peace we can be what we were meant to be, but in war, we are changed and made to that which we are not." He could have said the same about divorce and women. Barbara Erndright (?) wrote in her recent book, The Hearts of Men, American Dreams And The Flight From Commitment, "Men leave more often than women; disappear; drift away; become remote from their families or take on a new family with greater freedom more often than women. "The result, she says, "is that while men become singles, women become single mothers." One out of every five children in America lives with one parent. Sometimes violence operates to make women and children homeless, unable for a woman to keep a job, on the run. Women of all classes, all races, are poorer after divorce. There is an often-cited statistic from Lenore Whiteman's (?) Divorce Revolution, a ten-year study of divorce cases in California before and after no-fault was put in in the seventies. Her study found that one year after divorce, seventy-three percent of women have less disposable income while forty-two percent of men are better off economically. The Center for the Study of Social Policy in its report on Black families in America finds that intact Black families seem to be economically better off over the last ten years but Black single mothers have lost economic ground every year since 1980.

The state of California, like every other state, needs a child support policy. Notice I didn't just say "statute" or "a few amendments" or "a little attention paid to the Civil Code here and there". First, it needs a sound policy that addresses two major areas: the adequacy of awards ordered by courts and the enforcement of those awards by an agency or by courts -- effective and unending enforcement -- enforcement that provides consequences for failure to pay. First, you've got to have a clear picture of what will be fair and work -- then you must have the will to effect the work you have just assigned to the Judicial Counsel to set policy. Once you have the will, a direction, a map, if you will, then you can help them design the way. Let's look first at the adequacy of awards nationally. If men paid every penny of the support ordered and women lived on that support alone, seventy-three percent of men would still live above the National Standard Budget for a family of four. Ninety-three percent of all women would live below it. This goes to the adequacy of the awards themselves at the first instance. Clearly, the support being ordered leads to inequitable divisions of income. A typical award in California, Mom with two kids gets, at most, thirty-three percent of Dad's income. Dad, without kids, keeps sixty-six percent. In

a Denver study by Lucy Marsh-Gee (?), two-thirds of the fathers studied paid more for their monthly car payments than they paid for support.

The Attorney General of Connecticut, Joseph Lieberman (?), wrote a book called Child Support in America in order to guide legislators, he hoped. He showed that in one ten year period, from 1970 to 1981, the average amount of child support ordered rose from eighteen hundred dollars per year, per child, to two thousand one hundred and ten dollars per year, per child. However, when adjusted over the ten years for inflation, it was actually a decrease of sixteen percent in disposable income. In California the Gender Bias Task Force report showed that awards were inadequate and there is a whole chapter basically on that which I commend to your study. Here's why. It's present law. Present law bears no relationship to what it really costs to raise a kid. It simply does not take into account what it costs to go to the market, to go to the shoe store, to even have any kind of sports after school, anything like that. The rule in California under the statute, as I am sure you know, but I will cover it quickly since that was my assignment -- it can't be lower than the AFDC award which, up until July first, and I don't know what the new one is, was \$341.00 a month for one child, \$560.00 a month for two children, \$694.00 a month for three children. However, child support is shared in California, for the most part, between the custodial and non-custodial parents, according to their net income and a factor developed in your Code and expressed as a kind of percentage. Each judge is supposed to figure what support would be under the guidelines of his or her county and they vary, as you know, from county to county. There are the so-called Santa Clara guidelines which are used in Los Angeles and San Francisco and quite a few other counties. In Sacramento they don't use the Santa Clara guidelines -- the counties around Sacramento don't use them. They use a different set of guidelines which roughly fall between the Santa Clara numbers and AFDC, the minimum number. But, they all use the same percentage. Here is how it works. Take father's gross income minus appropriate federal and state withholding, FICA, health insurance, mandatory retirement and child support for other children. Those are the only things that can be deducted from the gross income. Now you have a net. Let's say the net is \$2,000 per month. Then you do the same for mom. Say her net is \$1,000 per month -- so you have a combined net of \$3,000. The guidelines say that the cost to raise one child in this family is eighteen percent of that net income. Eighteen percent. That's what the guidelines say. You've got a form from the Judicial Council that sets out the percentages, etc. Eighteen percent of any family's income, supposedly under the Code, supports one child and that's the assumption upon which the guidelines are based; all the guidelines. So, if child support is eighteen percent of the combined net income which we figured in our hypo was \$3,000 -- \$2,000 from dad, \$1,000 from mom. Eighteen percent of that is \$540.00 a

month. That's what state law now says in this particular family are the actual costs associated with having this kid. Now, dad is earning \$2,000 of the \$3,000 total. So, he is making two-thirds of the income. He has to pay, then, two-thirds of the support. Let's say mom is a full custodial parent. He has to pay two-thirds of \$540.00 a month, which is \$356.40. The result: he keeps \$1,644.00 for himself alone and she and the child have \$1,356.00 for their support. So, he has clearly more and it gets worse and worse as there are more children in terms of the division. Those are the best guidelines, if they are applied, and if the support is collected. Those are the Santa Clara guidelines.

The Sacramento guidelines are even lower because they average the AFDC minimum and the Santa Clara. Under the Sacramento guidelines he keeps \$1,700.00 for himself and she gets \$1,290.00. There is a new study out which I will send notes about when I actually get around to writing this testimony down and it referred to this as a hidden tax on working women. In other words, it's a reduction for her salary, where the dollars she's losing are really more at the margin, more around survival, than the dollars that he is paying. Now, this is in the best of all possible worlds, these numbers. Most judges are simply awarding AFDC, the minimum -- just right off the chart, and sometimes a few extra dollars for child care which under the Code so far can be an add-on. As you probably already have come to the conclusion, this is totally inadequate. A University of Colorado study showed that the poverty line the way the Feds measure it is completely inadequate as a measure of need. A normative budget this study showed, for non-working mothers, totaled about \$808.00 a month. But for working mothers, because of the increased cost associated with child care, etc., its around \$1,500.00 a month, nearly \$9.00 an hour, which most women are not earning. Actual spending patterns showed the need for \$970.00 a month, even for non-working mothers.

Shared custody under the California Code in a section that has actually been retained in the legislation that was sent over to the Judicial Council and with which, I should add, the Gender Bias Advisory Committee deeply disagrees -- shared custody allows a reduction in child support if the non-custodial parent has custody of the child more than thirty percent. Since there are 168 hours in a week, a non-custodial parent could fight in order to reduce his or her support for a Wednesday night dinner and Saturday late morning to a Monday morning drive to school and get a significant reduction in child support without actually assuming very many more of the expenses associated with the child. It's like an automatic deduction for time, but not for expense. The Gender Bias Task Force found that this reduction is often used as a bargaining chip in custody struggles. They suggested that Civil Code, Section 4727 be deleted from the Code.

So, what should we do about the adequacy of the awards?

SENATOR MORGAN: That's still in at the present time?

MS. KEUHL: Sorry? Its still in and the legislation that went to Judicial Council specifically indicated it should be retained in the temporary guidelines, as I understand it, not necessarily the permanent that may come out of the Judicial Council.

So, what should we do about adequacy? Five years ago, the National Council of Juvenile and Family Court Judges did a special issue on child support. What they said was that the cost of raising a child actually costs twice as much as they found the average child support awards to be. Simply stated, what we need are higher guidelines, higher percentages in the guidelines for the non-custodial parent. A higher percentage of the non-custodial parent's income, both parents basically, income should be attributed to child support because that's really the truth. It better reflects the actual percentage spent on children. There should also be a realistic treatment of women's abilities to earn, because the courts take that into account but they fantasize now, regularly, about women's ability to earn. We call it equality with a vengeance. It is the ability to work in the judge's mind that allows them to set lower child support awards. And, as you know, there is a section in the code that allows a vocational counselor to testify about what a woman could do. This so far only relates to spousal support but there are some moves afoot to make it relate to child support as well. We think it would be quite dangerous.

We believe that realistic expenditure should be computed not based on time, as I indicated, not without a reduction for shared custody. We believe the Judiciary should be required to set out the factors upon which they base their child support awards. We believe there ought to be automatic increases without an application, based on inflation. And, incidentally, the federal guidelines, which we are now trying to comport with, really don't address the question of adequacy. So, even if we were to design a California statute that totally comported with federal guidelines, it wouldn't go to the question of adequacy. Finally, the Judicial Council Gender Bias Advisory Committee strongly recommended a subject that I know you actually put into play quite a few years ago and that is support to age twenty-one. Because, as you indicated in the support for your original bill, when children reach the age of eighteen and support is no longer ordered for them, they still have a life and they really haven't increased their ability to earn any money between the ages of eighteen and twenty-one over what they had before the age of majority was changed. Consequently, we found that it is mostly mothers that are assuming the costs of education and of the lives basically of children between the ages of eighteen to twenty-one. I heard an "Amen" up there.

Now, let's talk about enforcement, enforcement problems. The other side of the great problem about child support is enforcement. Eighty percent of AFDC children have absent parents and over one-third of those have outstanding support orders. More than

four billion dollars is owed in uncollected child support this minute. In California at the end of 1986 there were one and one-quarter billion uncollected dollars of child support this minute. Of the four million women owed support in 1981, only forty-seven percent received the full amount. Twenty-eight percent received absolutely nothing. In that year, 9.9 billion was owed in child support -- six billion was collected. You can see that's only about two-thirds. We must have the will to design a system that works and we must really mean it.

The fifty states now actually have only two kinds of systems and I will recommend one to you. It is not the one we have in California. In some states there is a strong central agency which is responsible for all collection of child support. Now, it works a couple of different ways. In some states the agency only collects 4D awards, the AFDC awards, and it allows people, for a small fee, to file an application and ask to be included in the 4D system. I'll talk about that a little later.

SENATOR MORGAN: What I'd really like to focus on is what is working somewhere else, if you have an example of what we ought to be doing here, because you said there was another state where they were doing it better. Tell us what that is so we can investigate that.

MS. KEUHL: In other states, like California, there is a weak state agency where counties have a variety of formats. Communication problems. No accountability. That's the problem in California. In Los Angeles, as I am sure you know and probably have seen the report, there were fairly pathetic numbers about collection, about filing paternity actions, about doing anything. Actually, I think it is LA county that has brought down our state average so much that we felt compelled to respond quickly in terms of the federal guidelines. AFDC cases go to the DA's offices in each county. Non-AFDC mothers may request help in collection but the system is slow and burdensome and very few dollars are actually connected. What we need is what they have in Massachusetts. In Massachusetts, all AFDC and Medicaid cases automatically go into the system. However, any other person, as I indicated, may file an application and pay a small fee. In this 4D system, which is called 4D because the state agency was created by Title 4D of the Federal Social Security Act, then the central office in Massachusetts is in the Revenue and Taxation Office. They already have a dynamite enforcement scheme, as we know, about taxes, because everybody cares about taxes. Consequently, in Massachusetts you have a centralized system where child support is to be collected and it goes through the tax office so there appears to be, even if there aren't necessarily, much more severe consequences. We need more, I think, in California. We need a strong central agency. I think, as I indicated, we might look at where we put it so that it has some enforcement capabilities. In Pennsylvania, which has a strong central agency, every child support order is automatically put into

the system, which makes the Feds crazy because they have to pay reimbursement for every child support case in Pennsylvania, and Pennsylvania ended up shelling out a lot of money. But it is another way to consider it. I think it is also very cumbersome and maybe take too long. We need a way to get reports on income and to mandate income from self-supporting people. We now have automatic wage assignments in California. That's a very good thing. We now have tax intercept. That's a very good thing. But we can't get these people who are self-supporting, who have their own businesses, etc. It's very difficult. We need a way to get them. We need sanctions. There is a very good sanctions bill, I think, that's going through for non-payment. But, we must have the will to impose sanctions and to enforce sanctions. One suggestion is to add ten percent for every week that you are late. Sort of like we do with our mortgages. The bank makes me do it around my house. Perhaps the state ought to make him do it around his child support. Most important, and here's my last sentence, we need you in the Women's Caucus to be involved in the design of the guidelines, as much as you can, to let the Judicial Council know the policy matters about which you care, the ways in which we solve it, that we really mean it when we want adequate awards, that we really mean it when we want enforcement. The system is not currently designed for women and children but it must be. Thank you very much.

SENATOR MORGAN: Thank you very much. I would like at this time to introduce Assemblywoman Bev Hansen, a single mother.

ASSEMBLYWOMAN BEV HANSEN: Now, about the subject before us today. Some of what you touched on, Sheila, I would talk more about, but I know we are going to have someone from the Department of Social Services who I hope will share some of the automation system and the pilot projects in a couple of our counties, so I won't ask you any more on that issue. And, of course, we have someone from the Judicial Council here with us. Let me ask you, whatever the award, do you think that we ought, in our guidelines, to be setting as a goal a minimum for everybody, or that there ought to be a guideline that says the support should be at the level of the most affluent of the parents, or as the child would have lived but for the divorce? Which was some of the verbiage in the child support bill. How would you establish a guideline for payment, or would you have it statewide? While you say it is quite different from county to county, cost of living is quite different from county to county. I would be interested in your comment about determining awards.

MS. KEUHL: I believe the policy now expressed in the California Code, that a child should be able to share in the increasing wealth of either or both parents, even after the divorce, is a good policy and a sound policy. I think it's possible that the geographic differences and the lifestyle differences are taken care of if you express the award for support as a minimum based upon a percentage of the parent's income,

which is really the way the guidelines work now. The problem is, I think eighteen percent for one child and twenty-seven percent for two is really too low; that it costs more than that percentage of your income in direct costs in raising the children. I think that where people live and how much they earn are related to each other. The higher cost areas, possibly -- and I don't know because I think this could actually be refuted because costs are so much higher in, for instance, Los Angeles, where you have a captive community like in South Central LA where we have a very high proportion of Black citizens, the costs are actually higher in some of the areas because it is considered a captive community. Many people don't get out of the community and don't know that they're paying more than I pay in Venice for my vegetables. I still believe that the fairest and easiest way to do it is to assign a higher percentage of each parent's income and that that might take care of it. Thank you.

SENATOR MORGAN: Thank you. Debra Ellwood from Children Now. Children Now is a relatively new organization that has put out a report card on the condition of children for the last two years.

DEBRA ELLWOOD: I have copies of that for the Caucus members.

SENATOR MORGAN: In case anybody doesn't have a copy here and they're working with the Legislature, have worked with me on a bill on immunization and trying to find a way to make sure all of our children are immunized and working on the media, with the media, to try to get attention on the condition of children. And, maybe I could announce now that our immunization bill is on its way to the Governor for signature. Thank you.

MS. ELLWOOD: Great.

ASSEMBLYWOMAN HANSEN: Now, to find enough money.

MS. ELLWOOD: Right.

SENATOR MORGAN: Debra, let me not take any more of your time.

MS. ELLWOOD: Well, as you said, my name is Debra Ellwood. I am a Policy Associate at Children Now and very happy to be here today and I'm very happy that you are holding these hearings. We at Children Now believe that child support is one of the most important issues affecting the well-being of children. We really do greatly appreciate your interest.

Our work to date has convinced us that an effective system of child support really is critical to kids and, moreover, while child support is a concern to a variety of interests, we believe it's foremost a children's issue -- but unfortunately, we've seen that it's not often viewed this way and that's where I guess we feel like we can fit in. Our sole objective with this is -- with regard to child support -- is to research and present the findings and make recommendations solely from the perspective of what's good for children.

We have been researching the child support system for many months, as you know, and I have a few recommendations to date. I am not coming to you today with a lot of answers, because we intend to devote considerable time and energy over the next coming months in the field in an attempt to get a more comprehensive picture of where the current system is failing and how it can be remedied. In fact, our newest staff member, Christina Wilcox (?), will be focusing solely on that issue. As you investigate this issue further, I hope she can work very closely with you because we're here to work with you.

Why do we see child support as such an important issue for children? Well, as Sheila mentioned, most importantly, it's absolutely clear that a well constructed system of child support is a concrete way to reduce and prevent the number of children in poverty. The Pace (?) report on the conditions of children, which I think you might be familiar with, which was compiled by Stanford and Berkeley Researchers, cites an academic study, which estimates that poverty could be reduced thirty to forty percent through an effective system of child support. By encouraging and enabling parents to provide financial support for their children, many families could be freed from welfare and given the opportunity for independence. That same study that Pace cites estimates that AFDC case loads could be reduced twenty to fifty percent at the most. We've estimated that every dollar invested by the State of California in the upcoming budget year, as the LAO (?) estimated it, will save approximately three dollars in reduced welfare costs. So it's a real opportunity for people to get off of welfare into some independent lives. It's quite clear that child support is not the solution for everybody. Sometimes absent parents can't be found; they're no longer living or they're financially able to support a family. But, interestingly, for the majority of poor families, child support can help. Some seventy percent of absent parents earn more than twice the poverty line, and I think that's something people don't really realize.

Given that backdrop, there are a few suggestions for reform that we'd like to urge you to consider. I'll keep them real brief because I'm sure I'll be working with you in the future. I just wanted to highlight a few issues that we feel are important. First, with regards to the guidelines, we urge that you ensure that the guidelines for support orders are, of course, equitable, but also uniformly implemented. Our research to date has shown us that simpler guidelines -- perhaps just a simple percent of income -- do tend to leave less room for error and for interpretation and allow people with similar incomes to be treated the same way. A guideline should also require that absent parents pay only according to their ability to pay. While the substance of the guidelines is critical -- and obviously there are quite a few people working on that -- uniform implementation of those guidelines really is essential if we are to create a

truly equitable child support system. So, that's the first point.

Secondly, and briefly, ensure that effective wage withholding is effective. As you probably know, wage withholding is required by the Family Support Act of 1988, the Federal Welfare Reform legislation. However, we really want to emphasize that it be simple and easy for the employer to implement, and helpful to the client, not just an extra bureaucratic layer or an extra burden -- it's not overly burdensome.

Thirdly, we want to ensure that the mandated computer system does more than just collect data for the federal government. It is required to collect data for the government, but we would like to urge that the computer system be able to provide all custodial parents with up-to-date information on all aspects of their cases so that it's useful not only to the federal government but also to people interested in where their case stands. It should also help improve the efficiency of government workers who are responsible for child support enforcement. We feel that compliance with some of these things will be poor or overly burdensome if this isn't done.

Fourth, improve the incentives for both parents and the child support enforcement workers to make the child support system effective. Currently, approximately forty percent of child support orders have collections applied to them. One way to improve the percentage is to improve the incentives of those enforcing child support to do a better job, such as increasing the state dollars the counties receive to collect child support. As you know, at the present time, often other cases take precedence over child support. But another way to better the collection rate is to improve the incentives for women on AFDC to get child support from their absent parent. Currently AFDC parents receive about fifty dollars or receive fifty dollars of any child support that's collected and it's probably often not enough to encourage an AFDC parent to go through all the difficulties and hassles that it takes to get involved in trying to retrieve the child support. In addition to the child support collections being generally low, the other concern that we have is that child support collection rates vary so considerably throughout the state. We feel it's very important that we uncover why this variability exists. I understand the Legislative Analyst might be looking into that. We feel it's real important to design a system that ensures that parents throughout the state get prompt, efficient responses to their cases. A parent in Los Angeles should get the same treatment as a parent in Napa.

Finally, we would like to urge you to examine the feasibility of an assured benefit as a last resort in California. An assured benefit, very briefly, is a grant from the state to families whose child support payments are minimal or nonexistent. Unlike AFDC though, an assured benefit is generally designed to provide needy parents with the opportunities to work and still receive some supplemental income to raise their children. Under the current welfare system, when a person on AFDC earns beyond a

certain point, their benefits are reduced dollar for dollar and this creates a real strong disincentive to work if every dollar you earn is withdrawn. We believe that a thoughtfully approached assured benefit system can alter the skewed incentives of our present welfare system by reducing the benefit a little bit more gradually as income increases. We really believe this is complex, and therefore, we recommend that setting up a task force with state and national experts who have looked very closely at this to discuss the issue and come up with any recommendations, if there are any. There actually are models. New York and Wisconsin have pilot programs they're testing as assured benefit approach and, of course, some European countries have had these systems in place for many years.

These are just a few very brief general suggestions based upon our preliminary research but, as I mentioned, we will be taking many more months, talking with more people and doing more fact finding. We look forward to working with you. Thank you very much for your time.

SENATOR MORGAN: Thanks, Debra. I'd like to welcome Senator Diane Watson to the hearing.

SENATOR WATSON: Two things. In the Chair's initial remarks, there is mention that there is about two billion dollars outstanding, but it's an estimate, because there is some private arrangements. Off the top of your head, as we look nationwide, what would you think the amount outstanding would be of child support?

MS. ELLWOOD: That I don't know, but I do think it has been actually calculated. I think I could get that for you quite quickly. I think that there have been some reports to Congress that actually have a dollar figure attached.

SENATOR WATSON: I think the amount would be staggering. If we could get that pumped into the welfare system, it certainly would give us what we need, I think. The other thing I want to ask is, in the pilot programs that are going on around the country, what do you see are promising methods to do the collection?

MS. ELLWOOD: The pilot programs they talked about for this assured benefit system...?

SENATOR WATSON: Yes. What do you see are some of the promising procedures that would be more effective than what we're doing now?

MS. ELLWOOD: Well, just generally, not regarding this assured benefit, as I mentioned, we have found that people find that simple guidelines are really quite important so that they are easily implemented and fairly enforced. What other things? Other people also advocate assured benefit as an approach -- so that there is an incentive to work and there is an opportunity to work rather than -- so that every dollar you earn is not taken away, your AFDC money is not taken away as you earn more money. Things like that.

SENATOR WATSON: Thank you.

SENATOR MORGAN: I do look forward to working with you because I think those of us that have tried to work in the area of family law and children's issues find that we don't always get the support we need of hearing from our colleagues and I think Children Now can provide a real important function for us. Will you be having the staff available this next year?

MS. ELLWOOD: Absolutely. Absolutely. And Chris...

SENATOR MORGAN: Help us advocate?

MS. ELLWOOD. Absolutely. And Christina Benitas-Wilcox (?) is the staff person who will be devoting all her time to this and I will leave copies of The Right Start (?) and our report card with the sergeant for the members of the Caucus. Thank you very much.

SENATOR MORGAN: Thank you very much. And, at this time, Assemblywoman Marian La Follette has joined us. Welcome. Thank you for coming. Next is Cathy Dicker from the Family Equity Coalition in the Bay Area. While Cathy's coming up, I would like to share with you that, while I was visiting a child care center where one of her children attends, she provided me with some very convincing testimony of her child support problem and is one of the reasons we're having this hearing today, very candidly. It motivated us to start getting ready for next year's legislative session by having a hearing now, while members of the Women's Caucus are still in session. Cathy, welcome.

MS. DICKER: Thank you. First of all, I'm very new at this. I'm extremely nervous. All of the notes that I put together, I just threw out. You asked for a nonemotional testimony and I thought, oh, that would be real easy to do. I'm still very, very close to the son in the middle of this child support enforcement business. I have three school age children. I am receiving, at the moment, absolutely no child support and that is why I am trying to organize the Family Equity Coalition. I work at Stanford University as a secretary to an electrical engineering professor. People think you must make a lot of money. I make OK money. I make above minimum wage, but I have three children that I care for by myself. It is impossible to survive on the income I make, which is not bad. If it were not for the help of friends who have been financially and definitely emotionally supportive, I would be living in the street. I have twice been homeless. The problems from a parent's perspective -- enforcement. You go into court. A judge says, you have three children; you make this much money; you pay hundreds of dollars in child care every month; but yes, Mr. Dicker, you should pay a specific amount of money, thank you. Mr. Dicker decided he wasn't going to pay anything. He has abandoned his children and there has been absolutely no support. He's done -- to enforce support, I went back to court. I asked the judge that, after twenty-seven contempt charges, this man be forced to pay something or be motivated

somehow to pay something. He was -- nothing was done. I paid \$3,000 in attorney's fees and still I'm not getting child support. It is -- everything that these two women who have been up here so far have said is absolutely true, and it's real easy to listen to them and think well, it's too bad that that happens. But you have to remember that, for every one of those statistics, there is a woman who is trying to work. There are children who deserve nothing more than to have a roof over their heads and a healthy meal at least once a day. It would be wonderful to feed them what they need three times a day. When you go into court, you expect to be helped. You think that they're going to be fair, that they will give you the amount of money it's going to take to raise your children and that, yes, I'll do anything in the world I can. I'll work my fanny off. I'm gone from home twelve hours a day. All I ask is that he do something to help, not that he pay half of his income, not that he pay half of what it costs, but something.

They were talking about the incentive to work. Women don't need an incentive to work. What they need and the word she used, opportunity, should be used much more than incentive. The women I'm working with to organize this coalition have been on welfare. Several of them have returned to welfare. They've gone through job training and they've gotten jobs. They've gotten marketable skills. When they go to work, child care is so expensive they can't work, and if they had child support, they could keep working. Once you go off AFDC you lose everything. There is no more GAIN money. There is no more money for child care -- for post placement child care. There is no money for medical benefits and, if you don't get those when you work, you sure as hell can't afford to have a sick child. I know I'm going back and forth, and I apologize for that. Like I said, I'm new at this. I hope that I become much more experienced. I hope that I have an opportunity to talk to more people and explain to them, not in statistics, but in real life, that we're here and there are faces behind all those numbers.

ASSEMBLYWOMAN HANSEN: Have you noticed any difference in appearing before a woman judge versus appearing before a male judge?

MS. DICKER: I have not appeared before a female judge yet. (Laughter) I'd like to tell you one thing though, that...

SENATOR MORGAN: We have one to testify today but she's one of very few.

MS. DICKER: Even appearing before separate judges, there is no consistency. I appeared before one judge when my ex-husband was asking for an increase in child support. The judge couldn't look at my file and go through it and have time enough to see that this man has taken me to court six times to try and get custody of our children. He doesn't visit because he doesn't want to pay support,, and the only way he can get away with not paying support is to have custody of the children himself. He

doesn't want them. He doesn't visit them. The judge doesn't know that. When we try and take the time and tell him, you have to listen to all of this. You have to hear the whole story. They can't do that. They say, "Oops, sorry, you have fifteen minutes. I have thirty other cases to listen to." That is a big problem.

ASSEMBLYWOMAN HANSEN: OK. Now, you mentioned consistency as being a problem. Do you have a suggestion along that line?

MS. DICKER: Sheila was talking about certain percentages. I don't know if there could ever be real consistency because every case is different. There can certainly be much more than going in and one judge telling you that he owes you much more in support because of the amount of child care you pay, and the next judge saying, "I'm sorry, he doesn't owe you any more support. In fact, we're going to reduce the amount." That's what happens. You kind of look at them and it gets so disgusting and so discouraging that you quit going back. You quit asking for the help because nobody cares.

ASSEMBLYWOMAN HANSEN: What county is this?

MS. DICKER: I'm in court in Alameda County.

ASSEMBLYWOMAN HANSEN: You're in Alameda County, that's right. We heard earlier about Santa Clara County having some guidelines -- we'll hear about that later. To summarize an answer, would you suggest that we have awards that have some consistency in them as minimums, at least that were available to the judges in saying, "This is the minimum expectation."?

MS. DICKER: The minimum definitely has to be higher. What they're offering now is not acceptable. I don't know if they can be consistent. I mean, every case is so different and the availability of money and the availability or the ability to pay is different in every case. If the money is available -- if they would look at more than just income declarations. It seems like they look and they say, "Well, you make this much, you make that much." They have to look further back and see that there's a history of nonpayment. There are so many considerations. I know that's part of what the problem is, but they have to take all of those things into consideration.

SENATOR MORGAN: We have two other Assemblywomen who have joined us, Jackie Speier, who is Vice Chair of this Caucus and Delaine Eastin, Cathy's legislator. Jackie, you had a question?

ASSEMBLYWOMAN JACKIE SPEIER: Thank you, Madam Chair. I don't know that we've discussed this yet, but in my study of this issue in the past, the Agnos formula that went into effect in the state some years ago was an effort to try and provide some uniformity in the actual awards of child support and the formula, unfortunately, has been a ceiling instead of a floor. So, when we come up with whatever averages we do have, which is about \$180.00 per child per month, that is basically the ceiling in effect, because the formula has worked in terms of being interpreted by judges not to

create a minimum, but to create the ceiling. The floor is the ceiling, so to speak. We need to look very carefully and maybe for some of the witnesses that will follow, they could speak to what we need to do. Do we just scrap the formula that presently exists in the state and come up with a new one? Do we do some training for judges in the state that are going to take family law? Frankly, you know family law cases are relegated to the newest judge or to a particular judge that has a particular interest in family law cases. I think because there are so many of these cases, we should create a special incentive for judges to handle that court calendar and, you know, create an environment so they recognize how important we feel it is as a statewide and as a nationwide issue.

SENATOR WATSON: Madam Chair. On that point...

SENATOR MORGAN: Senator Watson.

SENATOR WATSON: I and Sheila Keuhl are a member of the Judicial Council's Gender Bias Task Force and, as you know, we just came in with a report. I'd like to, if we may Madam Chair, ask Sheila to come up and respond to what the Assemblywoman has just expressed.

SENATOR MORGAN: Just stay there Cathy.

SENATOR WATSON: Sheila, why don't you just come up and take a seat at the table here.

SENATOR MORGAN: Let's see. Did you hear Sheila testify?

SENATOR WATSON: No. I came in afterwards, but I think she goes right to the issue that Ms. Speier is raising.

MS. KEUHL: Yes, I'm sorry. I was the first to testify so some of the questions may be answered and you'll have the transcript. But, the Agnos minimum, what you said, Assemblywoman Speier, is absolutely right. It has become the award. And, what I suggested was, that the actual percentage of each parent's income that's attributed to support of a child should be higher than the guidelines they're using now, which is an eighteen percent for one child kind of percentage. I think that Chairwoman Morgan asked if there should be a minimum, and I believe that the statute should be drafted so that no award can be lower than "X" dollars or it could be "X" percent of the parent's income, whichever is greater. It would be very clear, it seems to me, as the witness has testified, a much simpler way to go at it.

SENATOR MORGAN: Should we build in an incentive for judges to want to take family court?

MS. KEUHL: Combat pay? That's what we called it on the Gender Bias Task Force.

MS. KEUHL: It would be like combat pay. I think actually the problem is a little more complex that has to do with status and the sort of hierarchy of all things.

SENATOR WATSON: But, money creates status oftentimes.

MS. KEUHL: It's true. I think that it should be the case, however, that each presiding judge creates the expectation that judges will hear family law cases and every judge is trained in family law cases. They hate it because they think it's sticky or weird, but it's only because it's a women's issue, of course, that it seems emotional and complex. Most judges who are sitting in family law court find that, if they really know what they're doing and they get some training, they actually don't hate it as much as they thought they would. They have the same problem with the juvenile justice system. It has no status and, therefore, judges don't generally want to do it. I wouldn't mind seeing an incentive.

SENATOR MORGAN: Members, what I'd like to do so that we can get all of the people who have come from some distance in, is to see if there maybe are a couple of the questions -- I'd like Cathy to make sure she's shared with us all that she came to share and then I think I will go out of order here in the testimony and have Judge Cordell come up and speak as a judge after Cathy finishes.

MS. DICKER: OK. Here are the main points I would like to make. You talk about the limits and the amounts of awards, but none of that makes a bit of difference if those awards are not enforced and that is a major problem. They aren't enforced when somebody can walk in with, like I said, twenty-seven contempt charges and walk out with nothing; not to pay the back support; not to start paying now; no fine; no jail time; nothing. That problem certainly needs to be addressed. I know that the judge we were seeing said that there is no room in the jail, and maybe jail time is not what he needs. Maybe he needs to work in a homeless shelter, which is exactly where I will end up with my children if he doesn't start paying. Maybe he needs to see what's going to happen to his children if he doesn't take financial responsibility for them. The judges need to be able to take time. I know it isn't their fault that their calendars are so overloaded and if the time was taken initially, I wouldn't have to go back to court eight times if somebody would do something to help the first time. And, that every time I need a raise in child support or that something happens, there is no way for me to take care of that myself. I have to go back to court. I have to either go and represent myself, which is incredibly intimidating. So you have to hire an attorney. You can't afford it. You don't do it. You get more and more poor. Children suffer more and more and more. I don't know why there aren't court appointed attorneys for family law cases, why there isn't an attorney available to me for free. There certainly should be. At reduced cost it's \$90.00 an hour. It's still far more than I can afford on my own income. If I have to take my ex-husband back to court, he should be responsible for the cost that I incur. I apologize for jumping all over. I hope that if I have the opportunity to speak to you again, this will all be taken care of. But, I know that's not going to happen now. I hope that some of it will be taken

care of. Thank you very much.

SENATOR MORGAN: Just a moment. I think Ms. Hansen has a question.

ASSEMBLYWOMAN HANSEN: Thanks for your testimony, Cathy. Don't you wish you could divorce him all over again? You know, that's what I always think. Gee, if I could just do it, I'd do it a second time. But...I never have had the problem that you have because I've always gotten my child support, but a lot of my friends have not. I think you said something that's really important, that we can't forget and that is that eventually you just give up. Because, the cost to take time off of work, the cost for the attorney; you're still paying child care while you're in the courtroom trying to be heard for your fifteen minutes. You just plain give up. And, that holds true for those of us that are getting child support that is woefully low, absolutely know it's just a joke. It isn't even close to what it would be if those women that are receiving child support on a regular basis, albeit it late and a number of things, it's possible have given up too in getting what their fair share is simply because the courts have just shoved everyone off. It's not worth the effort and the time.

MS. DICKER: I think it's incredibly emotionally draining and it's not worth the effort after awhile, but it takes its toll on your children and they have to watch you go back and forth with that. They're affected with every single step.

ASSEMBLYWOMAN HANSEN: Absolutely, the cost is very great to get what the court has already awarded and said is fair and adequate. So don't give up on this. If you are successful, and we hope you are, in resolving the problem for yourself and your children, don't give up on this because I think a group of parents who feel as you do and are working towards it, it is very valuable and I appreciate your time in trying to organize and put it together.

MS. DICKER: Thank you. I would like to say just one more thing. I'm sorry. Because there are so many other women and most of the women I talk to -- we have over 100 at Stanford University that are supposed to be receiving child support, most of whom are not. A lot of them give up and I guess it's incentive for me. We need to keep at this. The issue can't die.

SENATOR MORGAN (?): Cathy, Senator Watson and I have both tried in varying forms to continue child support beyond eighteen. We know the real problem you have with your elementary age children. We also know what happens to a mother, working minimum wage or above, trying to help her children go to college. We have not succeeded. Would your organization -- I know it's new and you're just getting organized in the last year -- but could you see your organization lending support beyond eighteen or do you think that the problem is so big before eighteen that we ought just to focus on that and not worry about it for college or do you have advice for us?

MS. DICKER: It could go both ways because I'm affected now by under eighteen I'm

saying, "Yes, do that", but because in four years I'll have a son who is very bright and because he's in public school now, he's getting gifted classes. When he turns eighteen if I can't stay as poor as I am now, there's no chance for him to go to college. I have to stay incredibly poor so he qualifies for whatever scholarships there are for poor children or he doesn't go to school. His father, by all means, should be helping in that and I'm sure, unless you can come up with support until they're twenty-one, won't.

SENATOR MORGAN: So your organization, you think, might be prepared to help us try again.

MS. DICKER: Indeed.

SENATOR MORGAN: Ms. Eastin, did you have a question?

ASSEMBLYWOMAN DELAINE EASTIN: Well, I just want to thank Cathy for being here and say in the future I would think maybe as your organization unfolds and to all those who are here today testifying and who walk out of here and you find you have some additional thoughts that you want to share with all of us, I think we as a Caucus are going to stay involved in it for a long time. You may actually find some other suggestions you want to make and we want you to feel comfortable making them.

MS. DICKER: Good because I know there are a lot of women like that that I've written down and put away and gone back and forth with.

SENATOR MORGAN: Thank you very much. Later on your second page, Judge LaDoris Cordell is listed and because we've had questions about the judicial process and know that she has about a three hour drive to get back in this time of day, I think I'll take her out of order and maybe she can answer some of our questions about what it's like in court these days. Thanks.

JUDGE CORDELL: Thank you, Senator Morgan. I'd like to thank you for taking the lead in the Legislature on the issue of child support and I'd also like to thank Assemblywoman Hansen for sponsoring a bill that will provide money for attorneys appointed by the courts to represent children. I thank you for taking the lead in that.

The statements that I make to you today reflect my personal views and are not in any way the views of my colleagues on the bench. The family court of Santa Clara county of which I am a member receives over 9,000 new family law cases each year. We have four judges and one commissioner. I am the supervising judge of our family court. I am also a single mother, divorced, and have had to deal with child support issues in my own life. As luck would have it however, I am not dependent upon the receipt of child support for my survival as so many single mothers are. My brief presentation to you this afternoon will be in two parts. In the first part, I will give you a judicial perspective on child support hearings and orders. It is my hope that you will conclude

that the current system for determining child support is problematic. In the second part, I will propose an alternative to the present system. I have given to each of you a packet of materials. Would you look at the first four pages and for those of you who do not have them, the first four pages are up here on the overhead.

JUDGE CORDELL: What you're seeing now on the overhead is the first four pages. Please go through the first four pages in your packet, if you will. Each of these pages shows my court calendar for day of the week. The first is a Monday, the second is a Tuesday and so on. You will note that my calendar averages fifty cases per day. These calendars are typical of any week in the long motion department of family court and the week that I chose was randomly selected by me just to show to you. That takes us just the first four days. If you look at the total, it's fifty-one I had that day. OK. Many, if not most of these cases concern child support issues. Either these are cases wherein it is the first court appearance and the request is for an initial temporary support order or these are cases wherein parents have returned to court to increase or decrease their support payments.

And, before I go further, there are two important facts you should know about judges. One, we pride ourselves in running an efficient courtroom. A good judge is a fast and fair judge. Two, judges do not want a family law assignment. It is rare to find a volunteer. The volume of the cases, the high emotions that accompany these cases, the complexity of the issues and the low prestige of the assignments scare most judges away. The result is that judges with the least seniority, the least experience and the most resistance are assigned to family court. So, when you take a reluctant, sometimes hostile and inexperienced judge and put him or her together with intimidated and frightened parents, likely making their first appearance in any court, then add to the scenario an atmosphere of adversity, and finally top it off with ten or maybe twenty minutes in which to hear and decide the case, the result is a system which cries out for change.

Now, I'd like to show you the tools that we judges use in making decisions about child support. The first and, Senator Watson, I gave it to you, is a hand-held Norton calculator, if you would hold it up. Just one moment. This hand-held calculator is programmed to give guideline support amounts when net incomes and time sharing figures are plugged in. Second, we have a guideline. I believe I gave that to you, Senator Morgan. It's a manual -- someone have the manual there? OK. This is a guideline. If you look through it, it has in it all the Santa Clara guidelines using incomes to arrive at support figures. Third, a deductor manual, and Assemblywoman Speier has that. That contains the federal and state tax deductions for various gross income levels. In your packet you have also -- all of these things must be considered by the judge. What is up there on the overhead and in your packet is the first of four pages

of an in-common expense declaration which it has to be completed by the parents and placed in the court file for the judge to review. You will see that right in your packet there. Four pages. All kinds of information.

SENATOR MORGAN: What is in your packet when the parent comes to you?

JUDGE CORDELL: This is what has to be filed before I can hear the case so that each parent has to fill one of these out and you're looking at one of the pages. OK? That's still going. All right, next you'll see an order to show cause or a motion for child support. This has to be completed and filed with the court by the parent who is requesting the support order. That's a copy of it up there. OK? Next, is a responsive declaration that has to be completed and filed by the parent who is responding to the motion for support. In addition -- now what you have up here is a very interesting document. In your packet are two computer printouts. The first one up here is a Disomaster (?) printout. I'm going to lower this down here and it's in your packet and if you look in your packet, it's highlighted. Look at two numbers that are highlighted. What I did was plug into some net gross incomes for two parents, here \$2,000 and \$4,000. And then you get the support amount from the computer right here showing child support and spousal support. Now, that is called a Disomaster (?) printout. And, there is yet another printout we utilize with another program. With the same income figures you get a different support amount up at the top. OK? And, it's highlighted on yours. There we go. OK. In addition, we have to have the previous year's tax returns from the parents as well as the previous three or six month's worth of paycheck stubs that ought to be brought into court.

So, when a case comes before me -- this is one of my fifty cases a day -- I must do the following: determine the parent's gross incomes; their net incomes; the number of children; the percentage of time the children spend with each parent. This is called time-sharing and is a factor in my opinion which should be eliminated entirely. Most states do not even use time-sharing. I then figure in additional children due to remarriages. Next I have to figure in additional income from the new spouses. There are no statewide guidelines on how or whether or not to include new spouse income. So, judges do whatever they want here. Then I have to consider the living expenses that are listed on the income and expense declarations, usually inflated. And finally, I plug in all this information, either into the hand-held calculator or into a computer which I keep right at the bench. And, voila, I come up with the child support amount for this couple. I can do one of these cases in less than ten minutes. I am very fast. I have to be to get through the case load that I have every single day. The parents -- most of them are in front of me without lawyers because they cannot afford them -- are then hit with my support order and in the next instant they are on their way out the door as I announce, "Next case".

Now, what is to be done? First, I question the propriety of making child support orders in an adversarial setting. And, let me digress just for a moment. I would eliminate the word "award" entirely from the family court terminology. We are not talking about prizes and we are not talking about winners and losers. I call them child support orders. I'd also caution us to be careful about other terminologies such as the term "non-working mother". I know of no such creature. While I believe -- back to eliminating what I think the first thing we should do is eliminate the adversity. While I believe that a judge or a hearing officer of some type has to make a child support order, there ought to be a less formal, administrative type hearing I think would be more appropriate. I question the need for lawyers in child support hearings. It is my experience that lawyers often contribute to the adversarial atmosphere. Lawyers are not available to many of these parents anyway. And, while attorneys do assist judges in getting to the facts, the information can be just as easily elicited by the judge if the parents know what is expected of them before the hearing takes place. Child support hearings are, in many instances, initiated by the District Attorney's office which represents the custodial parent. And this parent, usually the mother, does not have to receive public assistance in order to be represented by the District Attorney. And this assistance is free representation. The noncustodial parent, usually the father, is then hauled into court and has no right to counsel. Most of these fathers cannot afford lawyers. It strikes me that such a system is one-sided and stacked against the noncustodial parent. My picture of a family court child support system would have a judicial officer, hearing officer, preside over the hearing without lawyers with clear and strict rules for what evidence must be presented and with free assistance for the parents in preparing the required documents, provided by child support advisors, similar to the advisors who assist small claims court litigants. There would be statewide uniform guidelines and widespread use of computer programs for calculating support amounts. Hearings would be brief. The parents would be able to have their support cases filed and heard in a relatively short period of time. I see the role of the Office of the District Attorney's Family Support Division as that of a data bank, providing information to parents on the whereabouts of nonpaying parents, as well as providing collection and enforcement assistance. However, as long as the existing system continues, we must have more and trained judges, equal access for litigants, uniformity of support guidelines throughout the state and a completely computerized family court bench. I, for one, vote for change. Finally, I invite you to come to my courtroom for a morning or an afternoon and observe hands-on, first-hand, how these cases are handled. I think in that fashion you'll be better able to understand the system and understand the problems in it. Thank you.

SENATOR MORGAN: Thank you very much, Judge. Questions. Senator Watson?

SENATOR WATSON: Yes. First, I want to say to the Honorable LaDoris Cordell that I wish we could have you up here with us and I don't know how you got the time to come up here to testify, but not only was your presentation well thought out, you came with the kinds of structured recommendations that we can look at. And, I hope the Chair will entertain as a follow-up to this hearing, discussion on maybe a Caucus piece of legislation where we'll look at the kind of court -- now, we have difficulties funding new courts and judges and all. But, this in the long run would pay off. We know there are billions of dollars out there that we cannot collect and I think if we have a different emphasis on a different court and follow along your guidelines we might be closer to collecting that. But, more so than that, helping children and maybe some ways in keeping families together. Again I refer to the Judicial Council Task Force. Have you seen a copy of the report?

JUDGE CORDELL: I'm familiar with that.

SENATOR WATSON: Very good. Are you on one of the Judicial -- Sheila, this might be something you want to do, try to get her on one of those subcommittees that can help them as we try to go through our courts and deal with the gender bias that we see, and when we say "gender bias" we're not talking about just that shown to a female but, as you mentioned, the males come in who are not able to pay for their own defense. Would you be willing to serve on one of those subcommittees? We'll have somebody in contact with you. Thank you very much.

SENATOR MORGAN: Ms. Eastin.

ASSEMBLYWOMAN EASTIN: Yes, Judge Cordell. It was an excellent presentation. It's good to see you here. Could you tell us what you would do to elevate the status of family law in this state? It seems to me we pay a lot of lip service to how important we think families are and then we have always treated this area of law as if it's really our stepchild in the worst sense.

JUDGE CORDELL: Sure. I don't have the answers but I have a few suggestions. The root of the problem, of course, is that our priorities in this society have never been children, families and women and the ultimate way that the prestige of the family court gets elevated is that our priorities change and they change by virtue of what you're doing. That's the long term. In the short term, one comment was made that the atmosphere and attitude about family court is set within the court itself by the presiding judge and the other judges and that is problematic. I am fearful that what will happen is that when women are appointed to the bench they will immediately be assigned to family courts. It will be seen as a women's thing which will continue to lower the prestige in the eyes of other judges. But, what has to happen is a total amount of re-education on the bench about the importance of family court. Let me just suggest something to you. I've been in the judiciary now for nine years and what most

judges do are make decisions on a case one at a time. So, I might get a jury trial and I sit and I listen and I rule occasionally on evidenciary matters and the jury arrives at a decision. So, we're not, as judges, generally making decisions all the time all day. It is quite the opposite with family court. We have to make decisions about people's lives all day, every day. It is the most -- in my opinion and together with juvenile court -- the most difficult assignment. Because of that -- and yet that is not recognized by most members of the judiciary. What has to happen is a re-education and we do need people who are able to make these kinds of decisions all of the time and work in a system where we're not doing it when I'm handling fifty cases a day. I have had this assignment in the law and motion department for two years as of December. I will have had calendars totaling in excess of 20,000 cases in just twenty-four months. That's an incredible amount of cases and decisions to be making each day and that's a system that I submit to you is just not workable and should stop. But, I don't know if I've answered it but it's got to start internally as well as externally. I don't see them as being inclusive. We've got to move inside and we've got to move outside the system as well.

SENATOR MORGAN: Ms. Speier.

ASSEMBLYWOMAN SPEIER: Your Honor, it's a pleasure to see you again doing the good work that you're so noted for. A couple of questions. First of all, in Santa Clara county do you have a Domestic Relations Commissioner or is it spread through...

JUDGE CORDELL: We have four judges and one Commissioner.

ASSEMBLYWOMAN SPEIER: And, you're playing -- you have a law and motion calendar you're referring to?

JUDGE CORDELL: That's correct and there are three trial judges and a commissioner who hears domestic violence and hears the District Attorney's calendar as well, the support calendar.

ASSEMBLYWOMAN SPEIER: One of the issues that has been raised to me through a Family Law Advisory Committee that I have is that, in our laws as it relates to family law in particular, one group that is being truly neglected and who has been treated punitively in many respects, is the woman who is older, who maybe came at a different time where you married, you left school, you did not pursue a career, you raised the children and now at the age of fifty, fifty-five, forty-five, her spouse has now decided to move on to other things. She is now being called upon to take psychological testing to find out what she should be doing and being focused on to pursue some kind of a career. And, there doesn't appear to be from what I've heard, any kind of focus on what has happened to that particular woman. Now, I realize it's somewhat outside the realm of child support, but I'd like your comments on it.

JUDGE CORDELL: What you're getting at is the issue of spousal support and there

are studies that have been conducted to show that there are some real problems and inequities in the system. What you end up getting is that, in this entire system, the most powerful figure is the judge. The judge makes some very subjective decisions and we can't divorce our decisions from our own lives, so what you have are people coming to the bench, most of whom are men. And a study has been done recently to show that many, if not most of these judges, have gone through divorces with a certain mind set and attitude about the litigants they're seeing in front of them. So, once again, we're back to educating the judiciary, people who are in the most powerful position to make decisions about these women's lives, ought to be more sensitive to what's going on. I submit to you, yes, there are problems. What I think is happening is that we're getting judges in who are younger, who do not have as strict a mind set as judges who have been on the bench for a long time on these issues. But, I suggest and I support what you're saying, in that it is a major problem and I believe it is widespread with regard just to the spousal support issue. It is the most subjective -- we have guidelines, we have rules for child support, but not spousal support.

ASSEMBLYWOMAN SPEIER: Also, the idea of having, when there is a child or children in a family, typically now what happens is the house is put up for sale and the proceeds divided. There is some discussion about allowing the custodial parent to retain the home with the children for the length of time that the children are still in the home and not place that home as an asset to be divided up. What are your comments on that?

JUDGE CORDELL: That is the law. There is a statute that allows the judge to do that. What has to be established is that, for the house to be sold, if the parent wants to stay in the house with the children, it has to be established and proven that the children would suffer emotional or perhaps physical trauma if they are forced to move. If that evidence is presented and the judge is satisfied, then they do not have to move.

ASSEMBLYWOMAN SPEIER: But, as a practical matter, typically the house is sold.

JUDGE CORDELL: That's right. They're uprooted.

ASSEMBLYWOMAN SPEIER: So, we would have to change the law and make it less of a discretionary thing that, to have the sale of the house take place. If you felt that was...

JUDGE CORDELL: I make no comment as to whether or not judges ought not to have discretion in that area because there are a lot of different kinds of fact situations that come up that sometimes make it equitable to sell it. But, right now the law gives the judge total discretion with some guidelines as to what to look to.

ASSEMBLYWOMAN SPEIER: One last question. You feel very confident that using the computerization techniques is the way to go for determining child support.

JUDGE CORDELL: Yes.

ASSEMBLYWOMAN SPEIER: That is somewhat contrary to some of the comments that have been made to me over a period of years. How do we then get past the situation where in fact these formulas have been used not to benefit children but almost against them.

JUDGE CORDELL: The premise for this is that we have formulas or have guidelines that are in tune with what reality is today. Our guidelines, and I have been told this by another judge, if you took the time-sharing element out -- we factor in if the child is with one parent twenty percent or eighty percent -- if you took that out completely -- I have been told that if you look at California's guidelines then, we are -- our support orders, child support, are lower than that of Louisiana. OK? And, Louisiana's are low. That's inexcusable in California. So, what I'm saying is that the other fear I have is that I think we have to take as much subjectivity out of it and put more objectivity into the findings. So, to do that we come up with a formula, utilize the program, they give us guidance. They merely give us guidance and give us a range in which to give support. See, before all of this, judges just made up numbers. There were no guides at all. You made it up and you just got your luck -- your luck depended upon whom you came in front of. That's still somewhat the case today but less the case today, particularly in certain counties.

ASSEMBLYWOMAN SPEIER: But if, in fact, it's still low in California, which it is...

JUDGE CORDELL: It needs to be changed.

ASSEMBLYWOMAN SPEIER: So, you're saying that we need to change the ...

JUDGE CORDELL: We need to come into the twentieth century and, once we've done that, I think the computers ought to be utilized because they give certainty to the litigants, they can know ahead of time what's likely to happen in court and perhaps settle their cases consistent with what the guidelines show.

ASSEMBLYWOMAN SPEIER: So, you're saying the formula should be changed.

JUDGE CORDELL: Yes. We've got to come up to reality and once we do that, I think that we can work it.

ASSEMBLYWOMAN SPEIER: OK. Thank you.

JUDGE CORDELL: Sure.

SENATOR MORGAN: You can tell the attorney among the legislators who knows the protocol of addressing you as "Your Honor", and I'll apologize for our casual nature here.

JUDGE CORDELL: That's fine.

SENATOR MORGAN: Ms. La Follette.

ASSEMBLYWOMAN MARIAN LA FOLLETTE: I guess, Judge, what is bothering me is the inhumane process and there's no way, of course, it can be very humane when you have to

deal with fifty cases a day. And so, I can understand from your side of the bench why you would want to or you would need to rely on a formula and a computer.

There's no way, of course, it can be very humane when they have to deal with 50 cases a day. And so I can understand your side of the bench. . . why you would want to or you would need to rely on a formula and a computer. Are there instances when the other circumstances warrant a different procedure. . . and then what happens?

JUDGE CORDELL: Generally not. I am told every day to go out and get this calendar done and get it done before noon and then come back and do it again in the afternoon. I don't run an inhumane courtroom. But, the realities are that I have a very short period of time to get the people who are in tremendous stress.

And, that gets eliminated if we have more judges so we have fewer cases to deal with in a certain period of time. We could take more time with the cases. But, the system is just not set up for that. There are too many cases coming in and too few of us.

SENATOR MORGAN: Judge, do you think that the payments for a percent of income is something as simple as that or should it be a more complex. . .

JUDGE CORDELL: I haven't been able to think that through enough, but, it's certainly a possibility. On these computer printouts you have in your packet, you will see that it will even show you what the percentage is that the paying parents pay. It certainly would be the easiest just to say this percentage of your income is going and that's it...with some discretion to the court where there were some unusual circumstances -- if someone had huge medical bills, for example the paying parent, so you can make some exceptions; but I am for as much certainty that we can give litigants as possible, and taking away as much discretion in that area from judges as possible. And, I think that if we can do that then we could utilize the small claims type procedure to take care of child support. I am not talking any other issues in family court so that the litigants can feel they have a part in this and again don't have to run up huge attorney's fees in order to get into court to get what they are owed and what they are entitled to.

SENATOR MORGAN: Could you give me a sense of about what the ratio is, I know I didn't ask you this question in advance so you haven't done a statistical analysis, but what is the balance between mothers who have custody and fathers who are ordered to pay child support and mothers who are ordered to pay child support.

JUDGE CORDELL: Oh, it is most common, obviously, for women to have custody, and it's not -- and I really stress this -- I do not believe this because Judge _____ believes that women ought to have custody. Generally, I think what judges do is say that the primary caretaker continues to be the primary caretaker, and generally that has been the woman. There are cases, and I've made orders in a good number of cases

where the father has been the primary custodial parent, in which case the mother is ordered to pay support. So, it is not a rarity -- it's just not as common.

SENATOR MORGAN: I have heard a few years back that only about 5% of the child support orders were with the mother. But I just was curious. . .

JUDGE CORDELL: That may have been the case ... I don't see a major change in that. Women are still the primary caretakers.

SENATOR MORGAN: And the father the primary child support order.

JUDGE CORDELL: Right.

SENATOR MORGAN: Ms. Eastin?

ASSEMBLYWOMAN EASTIN: One other question, Your Honor, and that is, tell us about what the likelihood is that if over time a parent's income increases substantially. . . what is the likelihood that the Order is revisited upward in any meaningful way, and how is that process gone about?

JUDGE CORDELL: That case never gets into court until the parent comes back into court. Filing all of the documents I've just showed you, that parent then has to come back in and show a change of circumstance.

For child support, all that parent really has to show is that there is an increase in the income in that other household. That is really basically all that needs to be shown to get a change of circumstance. Then, it's back to the judge to decide what kind of an increase there ought to be. The problem, of course, is that in the household where there is an increase...there may be additional children and a remarriage. And there are no guidelines or rules for what the judges should consider.

A lot of these parents will come and and say, "I have three children from my second marriage. I want hardship deductions for all these three children." If I do that, that means there is less money for the child of the first marriage. And there's no guidelines, and some judges have very fixed opinions about whether or not that's right. So, we need some rules on this, but the likelihood is that yes, parents come back in -- not often because they have to hire lawyers up-front. Just to give you an idea, the retainers generally start off with \$1,500 to \$2,000 retainers. This is on a Motion to Modify Support. Okay? That is the retainer up-front.

SENATOR MORGAN: And could you get any assistance if you...I mean, I know... I actually heard of a case in Santa Clara County where someone who was on AFDC with four children had a spouse living in a nice home in Cupertino which he owned and driving a Mercedes Benz and she was on aid...

JUDGE CORDELL: Well, the way the law's set up now, the District Attorney is required, under law, if asked to, to represent a parent who is receiving support and the person does not have to be on public assistance, but the D.A.'s office is swamped.

You can't get into court for months. I am suggesting we need another way to get people in quickly without having to go through that kind of a hassle.

ASSEMBLYWOMAN EASTIN: If you could think of a structure that you think would be most appropriate, we would appreciate it if you'd share that with us.

SENATOR MORGAN: Thank you. I think you've lighted a spark which you usually do. Assemblywoman Hansen.

ASSEMBLYWOMAN HANSEN: As you consider and give us some advise about what you think is important, I think that a couple of times you mentioned this would lead to some settlements outside the courtroom if we established a system where the litigants knew what they could expect where it was fairly clear-cut when those cases came up. I think emphasis should be made on that because I think we want as few people in the courtroom to resolve this question as possible.

But then that gets back to the question of enforcement. If these non-paying parents knew that the enforcement was going to be strong and leveled at them, then they would settle out of court and the Courtroom wouldn't be as full and maybe more of these parents would be receiving what they were owed, but I think the focus should be on trying to set up things that would resolve as many cases as possible.

JUDGE CORDELL: I agree, and in fact you have given me another idea on this system that I am suggesting. If we had the advisors, the advisors would be trained on how to run the computer program. It 's so easy to use. All right? They could run it, just looking at the numbers, maybe we could come up with a system so the litigants could look right away and say this is likely what's going to happen. Then they prepare an order and we track it because, Senator Morgan, you raised this issue of tracking... cases that don't actually come into the court and settle out; because they probably have a mechanism whereas that could be tracked so the judge could sign the final order even though they agreed and worked out a settlement. There is a way of working that and knowing what the numbers are. Perhaps that's what the advisor could do. And perhaps then the number of settlements would just go up...and be fair settlements. Okay?

SENATOR MORGAN: Thank you very much. Could I ask -- is there anybody from the media in the audience? I bring that up because I wanted to share with the audience that we contacted every newspaper, radio station and television station that we had on our list, to let them know about this issue; and I think this is evidence they are more interested in the fires, and I know those are important and tragic, but the excuse that we got was, "We don't know, we have people out at all the fires all over the State". It gives you a clue as to how important the traditional establishment feels that child care, child support and children's issues are. I, frankly, just had to comment that I regret that that is still the case. But I am really impressed with the people we do

have here today. Before any of the Caucus Members leave, I want to thank you all for coming.

Our next person is Michael Fisher from the California Judicial Council.

MICHAEL FISHER: Thank you, Senator Morgan. It's a pleasure to be here. I'm a staff attorney on the staff of the Judicial Council. The first issue that I was asked to address was the role of the Judicial Council in child support issues. The Council's basic powers, of course, come under Article VI, §6, of the Constitution, which includes such things as the Adopting Rules of Court Administration Practice and Procedure; and performing other functions as specified by statute. The statement that I wish to make of the role of the Council in child support begins with the passage of the Family Law Act in the late 1960's. In order to assist in the implementation of that act, with its then significant new procedures and terminology, the Judicial Council devised family law forms for mandatory use in family law proceedings; and, at the same time, the Legislature, through Civil Code §4001, gave the Judicial Council the power to override statute in family law proceedings. This is a power that has rarely been explicitly utilized, but the existence of that section does mean that the Council's family law forms which are implemented as Rules of Court, have the force of law, and indeed would, in cases of family law statutes to the contrary, prevail. We would note, however, that this power extends only to matters under the Family Law Act; and that other forms of child support, such as Uniform Heritage Act procedures, are not subject to this power. This is also a power that, of course, having been given by the Legislature, can be taken back by the Legislature in whole or in part at anytime.

In the early 1980's, the Legislature passed a bill requiring the Judicial Council to adopt an age increase factor for the use in child support proceedings. This factor was designed to provide a basis for automatic increase of child support orders as a child's age and, theoretically, his or her needs increased. The age increase factor is a table that is part of the California Rules of Court. But, from what evidence we have, it is little-utilized in actual child support orders.

In the mid-1980's, the Legislature passed the Agnos Child Support Standards Act, which constituted a significant change in child support systems in California. The Council was given several roles under this Act. First, in a repeat of its role under the original Family Law Act, the Judicial Council created a set of forms and tables to help implement the new law. Some of these forms and tables were required by the language of the statute; and others were created under the Council's general rule-making power.

It should be noted that the Agnos Child Support Standards Act, of course, applies to all child support, not just child support under the Family Law Act. And, accordingly, to the extent any of the Council's actions implementing the Agnos Act were

to conflict with that Act, the Council's provisions would only prevail in a proceeding under the Family Law Act.

Under the Agnos Act, setting of child support is a two-step process. First, the determination as we have noted of the mandatory minimum amount of child support in accordance with statute. To follow up on a few of those comments about what the new amount is this year, the freeze of welfare that the Budget process put into effect, also froze the need-figure and there is no change this year in the minimum amount.

ASSEMBLYWOMAN SPEIER: You are suggesting that because the cost of living increases for AFDC were frozen, that froze what we are doing in terms of child support as well?

MR. FISHER: The Act which froze the actual dollar figures also froze in the net section which deals the need figure. I waited and checked, and that is correct.

SENATOR MORGAN: Well, and that affects the non-AFDC too? If judges are awarding, as their minimum the AFDC amount, even if it is a private non-AFDC case, they're still using those same guidelines?

MR. FISHER: To the extent that they are applying the Agnos minimum, yes, it does; to the extent that they are applying the discretionary guidelines which I will talk about in a minute, no, it does not apply.

ASSEMBLYWOMAN SPEIER: Well, I think we have reason to work on that.

ASSEMBLYWOMAN EASTIN: There's no rational reason for that, other than somebody has linked it. Candidly, there is no real reason other than it was accidentally linked. Yes?

SENATOR MORGAN: Is it linked, or is it your interpretation?

MR. FISHER: No, there are two sections, and I wish I remembered the exact sections, I don't have the Code in front of me, but there is a section in the Agnos Act which refers to the minimum basic standard of need, not necessarily the amount that's passed. And, those are two consecutive sections in the Welfare and Institutions Code. The section freezing need is in one section, and I waited until the bill came out, and I looked at the second section, which was the section that deals with the minimum standard of need, not the amount of the grant, and that too contains the exact same freeze language in it.

SENATOR MORGAN: So, maybe it is good we are having it before we recess.

ASSEMBLYWOMAN SPEIER: So, basically, if we wanted to take some action to amend that, we would be amending the section of the Welfare and Institutions Code that deals with the minimum basic standard of need?

MR. FISHER: That is correct. And, I would be happy to present you with the information that we've created on that. I should state also that after we made this determination, the Council, last week, did issue a press release to the effect that the Act had been frozen and that the amounts would not change.

The second part of setting child support is to apply a discretionary guideline to determine the appropriateness of an amount of child support higher than the mandatory minimum. Under the Agnos Act, the Judicial Council was charged with the development of a discretionary child support guideline to be used by all counties that did not develop their own child support guideline. This guideline has been adopted by the Judicial Council and is in use in a number of counties. The guideline adopted by the Council is based on, and similar to, that developed in Santa Clara County.

Also, in the mid-1980's, the Legislature passed the Family Court Services Program under which the Judicial Council was to assist Family Court Service Programs in the various counties which provide mediation and investigation services in child custody proceedings. One of the areas specifically given to that program was studying the amounts and levels of child support -- and I'll discuss that aspect in a minute when we talk about the so-called Williams Study.

Again, in the mid-1980's, the Legislature passed a provision providing for simplified child support modification under Civil Code §44700.1, a procedure which was designed to create modification without the need for attorneys based on specific percentage amounts. Again, pursuant to this section, the Council has developed forms and informational materials.

The Judicial Council also maintains a liaison with the California Family Support Council, the statewide organization of District Attorneys and others involved in child support enforcement under Title IV D of the Social Security Act. This relationship has resulted in several forms that were created primarily for district attorney use in child support enforcement. It's also worked in the simplification of certain forms as needed by district attorneys; and for the use of Federal URISA(?) forms in proceedings in California under that Act, thus helping in the States compliance with the federal requirements of the Central Registry to handle those matters.

The Judicial Council is presently working with members of the California Family Support Council and others involved in 4D enforcement to insure that the statewide automation of the California 4D program, presently under way, will proceed smoothly in regard to such issues as Judicial Council forms.

Pursuant to a request from the Judicial Council several years ago, the Chief Justice appointed an Advisory Committee on Family Law to advise the Judicial Council on matters involving family law. This group is working in the child support area as well as other areas.

In addition, the Chief Justice, as Sheila Keuhl has mentioned, appointed a committee to study gender bias in the courts, and a report has been issued; this has already been talked about, which discusses child support as well as other issues.

The second issue I was asked to talk about concerned the status of the Judicial

Council Study on Child Support Guidelines. This is a study that was commissioned by the Judicial Council under its Family Court Services Program. Under the program, the Council made a grant to Policy Studies, Inc., a Denver-based organization headed by Robert Williams. Mr. Williams has significant expertise in the area of child support guidelines, having produced the major child support guideline studies commissioned by the Federal Office of Child Support Enforcement.

The Judicial Council study is designed to examine the various discretionary guidelines in use in California under the Agnos Act and to compare the results of those guidelines; both against each other and against those guidelines in use in other states.

A preliminary draft of the study has been completed and is presently undergoing review and revision within the Family Court Services section of our office. The report is not yet public and I am not at liberty to discuss those parts of it that I have seen. I can report, however, on a talk Mr. Williams gave concerning his study at a February meeting of the California Family Support Council. At that meeting, Mr. Williams noted that his preliminary study indicated that the Judicial Council and Santa Clara guidelines yielded the highest awards within California. But, when these results were compared to those in other states, the results tended to be about 20% - 30% below the results in other states, ranking California near the bottom of those states with respect to guideline amounts.

Mr. Williams indicated that his preliminary research showed that nearly all the difference was a result of the means by which the California guidelines handled shared custody.

ASSEMBLYWOMAN SPEIER: Mr. Fisher, excuse me for interrupting, but you referenced the comment made about the Santa Clara guidelines as being the highest in the State. If, in fact, the Agnos guidelines and the ones that you developed as a result of that Act created a statewide guideline, we do then have discretion within the local counties to change those guidelines?

MR. FISHER: Yes, the Agnos Act provides that, in addition to the mandatory minimum set by the Agnos Act itself, each county is free to adopt discretionary guidelines to lead to higher award amounts.

ASSEMBLYWOMAN SPEIER: What did Santa Clara do then that augmented their orders?

MR. FISHER: Well, they've adopted a set of guidelines called the "Santa Clara" guidelines because they were the first to adopt them, which provide for different percentage figures. It's a relatively complex formula that takes into account the income levels of both parents, the number of children and the issue of shared custody or split time.

ASSEMBLYWOMAN SPEIER: How many counties have the Santa Clara guidelines now?

MR. FISHER: I don't have those exact figures. The Williams study is going to have those numbers in it when it is released. The Agnos Act states though that each county has to either adopt their own discretionary guideline or, if they have not done so, they must follow a discretionary guideline developed by the Judicial Council and, again, our guideline is based on the Santa Clara guideline.

ASSEMBLYWOMAN EASTIN: I just want to make sure I've heard you right, Mr. Fisher. You said that the Santa Clara guidelines were above other counties in the state.

MR. FISHER: When we say "Santa Clara" guidelines we need to be aware also that the Santa Clara guidelines are in use in counties like Alameda county, San Francisco county, San Mateo county.

ASSEMBLYWOMAN EASTIN: But that group is above other counties in the state.

MR. FISHER: Mr. Williams' study indicated that the Santa Clara guidelines yielded the highest results of any of the discretionary guidelines within the state.

ASSEMBLYWOMAN EASTIN: Then the Santa Clara guidelines, nonetheless, are twenty to thirty percent below the national average. What Mr. Williams said.

MR. FISHER: That's again what Mr. Williams reported, yes.

ASSEMBLYWOMAN EASTIN: Do you know if that is indexed according to cost of living or is that just against the national average?

MR. FISHER: The method of comparison he made, again in results of a question that was asked him of a similar nature when he made this talk, was that he used percentages, not absolute amounts so that it was comparing, say, a non-custodial spouse of \$4,000, a custodial spouse of \$2,000, for, just as examples, in California and in Michigan. So, you assumed the same income levels and the percentage of the income that was contained in the child support order was twenty to thirty percent lower in California. It was not related to cost of living.

ASSEMBLYWOMAN EASTIN: That's profound, then. If it's twenty to thirty percent lower in California, I mean, my niece just bought a house in Kansas that cost \$21,000. If it's twenty to thirty percent below in California where we have a much higher cost of living, it's really a profound difference, I would suggest.

MR. FISHER: Without, in any way, attempting to minimize that difference, I would state though that to the extent that the California income levels are higher than, say in Kansas, there would be some offset, again, without justifying the differences. I just want to be fully clear on that.

Now the reason, as we've given, is the issue of shared custody and under the Judicial Council and Santa Clara guidelines, the amount of child support that is initially found due is divided among the parties according to the amount of time each of them has custody of the children. Now, in some other states and, among them Colorado, where Mr. Williams is from, the effect of shared custody is different. In

those states, if the amount of support to be awarded is adjusted for shared custody, the amount of support is first increased by a percentage factor, commonly fifty percent, prior to the allocation. And the reason given for this increase is that a shared custody arrangement generally results in duplicated expenditures which do not benefit the child.

SENATOR MORGAN: Mr. Fisher, I believe you were here when Judge Cordell commented on her recommendation that we eliminate the time-sharing factor in our calculations. Would you make a comment on that.

MR. FISHER: That is another method that is used, I believe, in other states, that some states use the shared custody but adjust the base amount up before allocation. Other states just plain don't do it.

SENATOR MORGAN: Well, my impression of what she said was she'd just eliminate that factor.

MR. FISHER: Correct. I heard her.

SENATOR MORGAN: I was just wondering if you had an opinion on doing that.

MR. FISHER: No. I do not have an opinion in terms of that. The Council has not taken a position on that, specifically.

SENATOR MORGAN: That's right, I forget. You're here as a representative.

MR. FISHER: Yes.

SENATOR MORGAN: Then you couldn't even speak as an individual.

MR. FISHER: The third question that was put to me was the implications of Assembly Bill 3974, which is presently pending in the Senate. As has been mentioned that bill, which is sponsored by the Department of Social Services, will help ensure that California's child support guidelines meet the requirements of the federal 4D program. The specific questions that were asked on the agenda was, one; how would the public have input if policy is made by the Judicial Council in regard to child support guidelines. On that I would refer to two things: one, the specific language of the statute in its most recent amended form, talks in terms of the Judicial Council consulting with a broad cross-section of groups involved in child support issues in creating both some initial guidelines and a report to the Legislature. And, let me maybe back up first by noting that AB 3974 contains two tasks for the Judicial Council. The first would create an initial guideline by the Council, replacing both the Agnos mandatory minimum and the various discretionary guidelines in use in the various counties and, under the language of AB 3974, this guideline would be based on the current Judicial Council discretionary guideline, modified as needed to comply with federal requirements and to take into account any recommendations made by the Policy Study, Inc./Williams study on child support guidelines. That particular guideline would be required to be enacted within sixty days of the effective date of the bill, as

needed to comply with federal requirements and to take into account any recommendations made by the Policy Study, Inc./Williams study on child support guidelines. That particular guideline would be required to be enacted within sixty days of the effective date of the bill and, if AB 3974 is passed during the current session, it's our anticipation that we would be seeking public input as well as setting up an advisory group during the month of September to study the issue, and to make a report during the month of October so that the Judicial Council could consider the recommendations, enact the guideline at their November meeting so that the guideline could take effect on January first of 1991 when AB 3974 also takes effect. This particular guideline would be in effect only until January 1 of 1993. The purpose of this guideline is to provide the Legislature with sufficient time to create a more permanent guideline structure and that is related to the second task given to the Judicial Council under the bill; to prepare a study and report for the Legislature on a permanent guideline structure and that this report would address the respective continuing roles of the Judicial Council and the Legislature in maintaining, amending or otherwise managing the statewide child support guidelines. This report is due on or before December first of 1991 or a little more than a year after this measure would be passed. I think you can understand, therefore, why both I and Bobby Welling (?), another staff attorney, and also the head staff attorney for the Gender Bias Report, pretty much have our 1991 set out in front of us.

We anticipate again working with a fairly large and broad-based advisory group to study and seek public input, both by mailing out requests for comment to as many different groups as we can find, as well as holding public hearings in the second phase, in the issue of the report to the Legislature.

You've also asked me what topics would the Judicial Council focus on. For example: definitions of income; supplemental support for day care expenses and the like. In this regard, it is our intention that we would not seek to limit in any way the study. The Legislature seems to be stating fairly clearly in AB 3974 that they want an overall review of the entire situation and not precluding anything in terms of what is looked at in terms of child support. So, what topics get focused on would rely in large part on what kind of public input is received during the study process.

SENATOR MORGAN: Mr. Fisher, I know there is one more question on the list but I just noted as I came back in that there are members of the audience that wish to address this too so I think in the interests of time I would call this to a halt unless members of the Caucus have a question. And, I'd like to welcome Senator Killea. Thank you very much. Our next person to testify is Wayne Doss from the Los Angeles District Attorney's office. He is with the Bureau of Family Support Operations. Welcome.

WAYNE DOSS: Thank you very much, Senator Morgan. I am truly honored and I

appreciate the opportunity to come and testify before the Caucus today and I hope that I can help shed some light on some of these problems. I am submitting some prepared remarks and materials that I've been sitting here scribbling in the audience all afternoon because you had some very good witnesses. They have raised some very good questions and issues before this Caucus that I think need to be addressed and I think I probably will depart from my outline in order to do that.

SENATOR MORGAN: We'd be happy to have the spontaneous comments and will read your written testimony.

MR. DOSS: I think it's important and it's undoubtable after listening to testimony here to understate the consequences that the whole child support program and the family law system in California are having on the children and families in this state. You're making a very good beginning here this afternoon in looking into this problem, but it really is only that -- it's a beginning. I think that you can understand and appreciate even more now, than perhaps you did at the start of the afternoon, what a seamless web of problems are involved in this area. As complex as the problems are, there is not going to be a simple solution or any single solution, although it may be helpful in addressing some of the problems that are talked about here, that is going to be enough to do the whole thing.

One of the areas that I was asked to address in coming in here is the success that Los Angeles County has had recently in turning its program around. As many of you are aware, in February of 1989, which is just a year and a half ago, the Legislative Analyst's office issued a report which was highly critical of the child support enforcement program in the state of California in general and in Los Angeles County in particular. It was not a particularly happy time in February of 1989 to have to deal with a lot of questions that were coming at us, but I will tell you that the bottom line on all that is that it's been a very productive year and a half since then because it's focused a lot of energy and effort, not only in the District Attorney's office, but in the county and the state, on turning around a lot of problems that we've experienced and that have been endemic, it seemed, to the system over the preceding eleven, twelve years. I have been in this program for thirteen years, all that time as a deputy district attorney in Los Angeles County. For the last nine months I have been the Assistant Director of the Bureau of Family Support Operations in Los Angeles and I can tell you that in all of that time I have never seen so much effort and attention and resources at the county level devoted to the problem of child support enforcement. I think that is something that we're going to have to do on the state level if we're going to have any hope of turning the problems that you're hearing about here today around.

SENATOR MORGAN: Sure. Ms. Speier.

ASSEMBLYWOMAN SPEIER: I remember reading that Leg Analyst report and copying it and sending it to my county DA, as well, who then sent me a letter back saying that the figures they were using and the formula was wrong and we sent that back to the Legislative Analyst. They interpreted it and sent back a reply and it became a paper shuffle. Did you, in evaluating the report by the LAO, come to find that in taking everything into consideration on it's merits, it was adequate, consistent and accurate in terms of what it was trying to disclose to the Legislature about the problems within the Family Support Division?

MR. DOSS: Although I might quarrel with some of the detail of the report, I would say that, in the main, a lot of the report was very accurate. It is hard to say, but it's truthful to say, that it's an indictment that in many ways rings true and it's difficult to argue with much of what was put in that report. We didn't argue with what was put in that report. We attempted to address the problems that were put in that report and I think to some degree we've been successful so far, and I'll talk about that a little bit. In particular, in Los Angeles County, two of the problems that were focused on by the Legislative Analyst's report were: one, a significant understaffing in the Bureau of Family Support operations and; two, a lack of significant automation in the child support program. Those are undeniable problems. We had a twenty-five percent understaffing in the Bureau of Family Support operations a year and a half ago. I am pleased to say, however, that as of today we are virtually one hundred percent staffed with the normal attrition that occurs in any large operation, and we employ almost eight hundred people in the district attorney's Bureau of Family Support operations. In Los Angeles county I can tell you that we have undertaken in the last year, two civil service hiring exams to fill case work positions and, as of the beginning of this week, virtually all of those positions were filled. On the issue of automation, I can also tell you that within a month of the issuance of the Legislative Analyst's office report, representatives of the federal government, the state Department of Social Services and the county government, both the Board of Supervisors and the district attorney met in Los Angeles and arrived at a memorandum of understanding which laid the groundwork for significant funding -- ninety percent funding -- of an automation effort in Los Angeles county. The work had been ongoing for some time prior to the issuance of the LAO report. It's probably unfair to say that it caused the parties to come together in March of '89, but it certainly didn't hurt and I can also tell you that today, this very day, August 16, 1990, we are forwarding to the Department of Social Services and to the federal government, a contract for the delivery of an automation system in Los Angeles county which, if implemented on schedule, should be up and running within twenty-four months of the approval of that contract by the Federal Government, the State Government and the Board

of Supervisors. So, we're very, very pleased about that and it is really impossible to understate the need for automation in this program. You're going to hear more about the statewide effort at automation from your next witness, Mr. Horel, but I can tell you that, if we have any hope at all of addressing the problems, the significant problems of assisting families in this state in collecting child support, locating absent parents and doing the enormous task that we have set before us by the Federal Government under Title 4D, it has to involve automation. It can't be done without automation. The commitment of personnel that would otherwise be required to do this would be so enormous that the expense would not be conscionable, I think. It has to be automated. The good thing is, it can be automated and it is being automated. We're very hopeful that we will have, within two years, a state-of-the-art system in Los Angeles county. I'm proud to say that that will be in advance of the automation in the rest of the state, not because we're in a race with the rest of the state -- we're not -- but it will be of significant benefit to the rest of the state if Los Angeles county can be automated and can be up-and-running that much sooner because we are so much a large part of the state's caseload. Our caseload size in Los Angeles county is larger than that of thirty-eight other states and so we have a significant effect. When it's a bad effect, a drag on the ability of the rest of the state of California to meet the goals and requirements of the federal government and of this Legislature in performing under the Child Support Enforcement Program.

ASSEMBLYWOMAN LA FOLLETTE: LA's population is not greater than thirty-eight other states.

MR. DOSS: No, it's not, but we have a very large -- as you can imagine --- welfare population in Los Angeles county which contributes also to the size of our caseload. As you've heard, we are required to take action in welfare cases and we have a significant divorced and separated family population in Los Angeles county which also contributes to the size of our caseload. It is an enormous problem and it's going to take a lot of resources even now to resolve. I'm very pleased to say that I think we've come a long way in a year and a half, but we have a heck of a lot farther to go before this problem is gotten a hold of reasonably.

One of the things I'd like to share with the Caucus this afternoon is some of the other indicators of success that we've had in Los Angeles county in the last year. We were pleased to announce in July that our fiscal year 1989-90 collections were just under one-hundred and five million dollars. That is an enormous amount of money. It's not nearly the amount of money that we have to collect in Los Angeles county, but that represented an increase of 5.8 percent over the prior year's collections. Now, while that, under most measures, would probably be considered modest at best, 5.8 percent, I would ask you to compare that to the preceding two year's growth rates which were less

than half that amount. So I think the measures that we're taking in Los Angeles county are starting to have an impact in terms of collection and I am not loath to tell you that we will be disappointed in this fiscal year if the rate of increase is not at least 10 (?) percent in Los Angeles county. We're doing a lot of things that we think will significantly impact our collection efforts in Los Angeles county. Some of those things are more effective use of the enforcement remedies that we have available to us. In the last year we have had a one-hundred and twenty-two percent increase in the number of property liens we have filed, not only in Los Angeles county, but throughout the state. If anyone should doubt that a property lien can be an effective method of enforcement, I had a case that came across my desk from our office in the San Fernando Valley recently where a property lien yielded \$65,000 in a single case in a collection of child support. It is a very effective tool, especially in areas where property values are high and where turn-over of property is regular and constant. So, an increase of one-hundred and twenty-two percent in filing of property liens should have significant impact on our ability to increase collections.

SENATOR MORGAN: And you have all the power that you need to do that now.

MR. DOSS: Absolutely. Absolutely. And, we've had that for some time. What we've done is really focused the efforts of our staff on making sure that in every case that we have in our office, these remedies are looked at, that the available remedies are utilized and we're creating more accountability on the part of our staff for doing just those things. Similarly, we've had a thirty-six percent increase in the number of wage assignments which we've obtained in the last year in Los Angeles county. It cannot be overstated, the value of automatic wage withholding to the effective collection of child support. This is the single most effective tool that we have today to collect child support. Unfortunately, it does not address one of the most problematic areas of child support collection which is collection from the self-employed, the person who works for cash. But, nevertheless, it is a significant source of income and one of our prior speakers this afternoon addressed the question of making sure that the system works smoothly and that is extremely important. One of my present concerns is that federal regulations are complicating the task for employers, not simplifying tasks for employers. The regulations regarding distribution of child support are placing additional requirements on employers with respect to reporting when a support payment is deducted from an employee's pay check, and that is going to result, I think, in some resistance on the part of many employers in cooperation with wage assignments and, to the extent that that happens, it will not be a good thing.

One last statistic I'll give you. We've had a twenty-six percent increase in the number of writs of execution, that we've employed in the last year. Again, that's a significant number. In a case that came across my desk just yesterday as a result of a

writ of execution, we were able to take from an absent parent a 1987 Rolls Royce, a 1990 Mercedes Benz convertible and a 1989 GMC Suburban. All of those automobiles are going to be auctioned and the proceeds will be applied to that man's child support obligation.

ASSEMBLYWOMAN LA FOLLETTE: Were the payments current on those automobiles?

MR. DOSS: The automobiles were paid in full.

ASSEMBLYWOMAN LA FOLLETTE: (In answer to background comments) Exactly. That --- that was my point.

MR. DOSS: One more thing that I'm pleased to share with you and, although it is certainly at this point preliminary -- as you all know, the State of California has been laboring under a failed audit for the last couple of years. You know that the State failed the 1986 Federal program audit in the child support program which was in large part responsible for the Legislative Analyst's concern in the program. That has been hanging a twenty-five million dollar penalty over the State's head -- a minimum twenty-five million dollar penalty over the State's head for some time. We're now in the middle of a corrective action audit which, if we're successful in passing, will eliminate, at least for this year, the concern over that penalty. The preliminary results in Los Angeles county would indicate that the efforts that we've undertaken in the last year have resulted in our ability, at least, to pass that audit. If we can pass that audit I think we have significantly improved the opportunity of the State of California as a whole to pass that audit and avoid the penalty which has been hanging over our heads. So, we're very pleased. As I say, the results are preliminary and the Federal Government has not yet released its report for the State as a whole because it has not completed that. But, we have reviewed the cases that were involved in that audit and we're very satisfied that we've done well.

SENATOR MORGAN: I have to bring this to a close, because we do have two more people to testify. I just had one question and that was whether or not you favor a centralized system or whether you think this more decentralized system that we now have with each county, setting up guidelines and enforcement procedures, is the preferred way?

MR. DOSS: To be very frank with you, I'll waffle on that issue. I've been looking at this a lot over the last couple of years and particularly in the last few months because it's been a matter of some concern in a number of levels. I think the issue of where the child support program should be, should reside, and how it should be managed, still needs a lot of study. I don't think that it's possible to conclude on the basis of another state's success that their program can necessarily be translated to a similar success in California. We have a very different system here in many ways. As you've heard, it's a complex problem. I think the area does deserve study and I would

commend to this Caucus that as a major area of study. One of the things that I would recommend, and I think it's important if we're going to be successful in this State, is that we make every effort at the state-level -- and, we're about to undertake something like this at the local level in Los Angeles county -- to raise the public perception of the problem of child support enforcement. You commented earlier, Senator Morgan, about the lack of news media in attendance at this hearing and it is regrettable, if not abysmal, to state that. A couple of year ago -- it seems like only a couple of years ago -- drunk driving was a problem that was snickered at and was not taken seriously. Today no one snickers at that problem. It's taken very seriously and I think that the same kind of effort by legislators, by law enforcement officials, by public administrators, needs to be made to raise the level of public perception regarding the problem that is presented to all of society by the failure of a parent to pay child support.

SENATOR MORGAN: Thank you. We hope that this is a beginning of raising the consciousness on this issue and you were invited here today because we'd heard of the good job you were doing in LA and keep it up. Thank you very much.

MR. DOSS: Thank you.

ASSEMBLYWOMAN EASTIN: In summary, would you say that the problems that we have in California ranking as poorly as we do in terms of performance nationwide, has to do a great deal with automation and the lack thereof?

MR. DOSS: There's no question about that. There's no question.

ASSEMBLYWOMAN EASTIN: What would you rank as number two?

MR. DOSS: I think that we need a significant commitment of resources at the state level. By resources, I mean not just money, but personnel, but of course, personnel also means money to working with counties throughout the State in training and in operating the child support program. I view the question of spending money on this program, as I think Debra Ellwood indicated earlier in her testimony, not merely as spending money but as an absolute investment. The 1990 Legislative Analyst's budget report indicated that the state of California saved eighty-three million dollars in the child support program in the prior fiscal year. That's a tremendous amount of money on a very small investment and I think that all of the evidence would indicate that additional funds spent on this program are going to be equally well rewarded in terms of what they will reap for benefits in this state.

ASSEMBLYWOMAN EASTIN: Thank you.

SENATOR MORGAN: Thank you very much. I would like to introduce Bob Horel, who is the Deputy Director of the Welfare Programs Division in the Department of Social Services. They are doing some pilot projects through that agency. Welcome.

BOB HOREL: There are three items that I was prepared to talk about today. One was

the implementation of the Family Support Act of 1988 and the various provisions of that. Secondly, the automation efforts that you're talking about and what we're doing in that area, and the third was LA County and, of course, Wayne's already covered that in some detail. We'll just maybe touch on it a little bit.

SENATOR MORGAN: If you want to do the first two and be available for questions, that would be great.

MR. HOREL: OK. In terms of looking at the amount of time we have here, what I'm going to do is real quickly summarize the status of the Family Support Act. Just to let you know I do have the testimony written and people who are interested in going into the detail can do it. There are nine technical items there. I can just say generally, they're all on track. We've got plans for all of them in terms of how they'll be, all nine of them will be implemented. Some take regulations. Some take legislation. The ones that take legislation, that legislation is in process. And some of it, you've already talked about today from other testifiers. I'll just say that and make this available. OK.

In terms of automation, that is the most exciting thing we've got going on in child support today. We are automating the entire State. It was mandated by the Family Support Act and out of that there is provision for ninety percent funding. We have legislation going through right now to give us the authority and the requirements at the state level to have 57 counties be in our system, what we call SACHS -- Statewide Automated Child Support System. That system will interface with the Los Angeles county system that Wayne described to you, so that we will have one system for the whole State that will be able to communicate data between counties.

SENATOR MORGAN: Why 57? Is LA separate?

MR. HOREL: LA is separate, right. Los Angeles county will have their own system. As he described, we did get the Federal Government to do that.

SENATOR MORGAN: What is the number of that legislation?

MR. HOREL: 27, AB? SB 2718.

ASSEMBLYWOMAN EASTIN: There will be an ability, if I'm in Kern county, to dial up on the system and see that this errant parent is in Santa Clara county? Will I have that kind of facility?

MR. HOREL: That would be one provision. Basically, the system will have all the child support cases on it. Any county will be able to inquire if there is a court order on this case, where is it, what county has the responsibility for it. If somebody comes in and applies for welfare they can get their history. But, as well, there'll be a link-up with what is now the Patent Locator Service in the Department of Justice to automatically, when somebody applies for welfare or for child support services, go through all the various computerized files and determine what information

they can about jobs, income assets, location of absent parent.

ASSEMBLYWOMAN EASTIN: Suppose we have a case of a person who has an absent spouse, an absent former spouse, not paying child support. The person is not yet on aid but could, in fact, be on aid. Will they be able to use this system too?

MR. HOREL: In terms of the inquiry for location, yes. Any person can come in and apply for supporting ??? services and that would include location efforts ???.

SENATOR MORGAN: I just remembered legislation that you mentioned is Senator Watson's legislation, so let's make it successful.

SENATOR WATSON: We find, particularly in Los Angeles county and the adjacent counties, the "Welfare Queen" who was able to file in LA county and go over to Orange county and so on. This would set up a system that would catch that. Not only will it give us some central way of identifying who's in the system, but we can get errant parents. We can find people trying to fraud the system and we can have a data bank too.

MR. HOREL: In putting the system together, we have put three goals that are the focus of the system. One, is to improve the quality of service to the child support custodial parents. To do a better job on inquiries, to be able to provide that service for them because that is a major problem with the current system, without having information ??? as assistance. Providing the service becomes very cumbersome bureaucratically. Secondly, we want to improve the efficiency and the effectiveness of the child support payment system, increase collections and do it in a cheaper, easier way -- more automation, more automatic offsets. Third, we want to be in compliance with federal and state law, and I think that's very, very important. We've had a tough time doing that and I think by automating we will make that an easier thing. So, that is the major effort we have going in automation. A couple less comprehensive but very important items are what we call the integrated data base. We put together one data base statewide that we run against the Internal Revenue Service, Franchise Tax Board, the Lottery, Unemployment Insurance, and State Disability Insurance, so when people are behind in their child support payments, we can intercept payments coming from those various agencies to them, and put them off into the child support system and give that money to the children. We had separate systems going and now have one comprehensive system that runs very efficiently. We're collecting a lot more money. That's been part of the success in Los Angeles county. They've made some changes regarding the way they handle the intercepts with the changes we made at the state level, we've been able to increase greatly the amount of money that they get coming in there.

SENATOR MORGAN: We've heard comments that one of the problems is with the self-employed, perhaps the subcontractor that Ms. Eastin put a good bit of study into this whole contracting area that may be for cash. How do we get at that?

MR. HOREL: You know, the whole underground economy issue goes beyond child support, of course, in terms of welfare, in terms of your taxes...your tax agencies and everybody -- the begging in the streets. It's a very, very broad problem and honestly I don't know how to solve it from within child support.

SENATOR WATSON: It's to get at him with his tax refund because a person who is self-employed, will have a considerable tax return and refund because they have all of these deductions they can take and it's one way to do it, with this automatic system.

MR. HOREL: Right. Those that are reporting their income to the tax agencies...

SENATOR WATSON: Right. If they make over a certain amount, there is some way we have a linkage to get it. Not that we're going to get it all, but we do have a fix on it.

SENATOR LUCY KILLEA: Do we check into the lottery winners?

SENATOR WATSON: Yes.

ASSEMBLYWOMAN SPEIER: There is an intercept already in effect?

SENATOR MORGAN: Yes. Ms. Speier.

ASSEMBLYWOMAN SPEIER: One question, comment. The self-employed people are problematic because it is difficult in terms of wage assignment which will go into effect soon in our state and it's an automatic way of getting child support. We have looked at the Franchise Tax Board as becoming more than just an agency to receive tax returns and tax payments, but to also make them a collector of sorts. And, while they're somewhat resistant to that, I've been toying with idea of looking at them and also the Department of Motor Vehicles. If it's one thing that people seem to not do without, oftentimes, is their cars, and we've used the Department of Motor Vehicles to get to persons that haven't paid their parking tickets and typically they've been focused on vehicular kinds of activities. There's nothing that could really prevent us from looking at a couple of these agencies to be used in that manner. I was just curious if you'd looked at any other ways of trying to get to those individuals that don't have the typical paycheck that comes in each week that you can put a wage assignment on.

MR. HOREL: Right. Yes, we're looking at ways...because that is the key problem in child support is, you know, and it's been said several times here. One of the things that had been discussed was, when registering new vehicles or getting a driver's license requiring a social security number, now the issue of that the last couple of years has been the cost of that in terms of the automated system at Motor Vehicles and whether they can justify those costs based on just child support alone. But, that's one area we might check further on.

ASSEMBLYWOMAN EASTIN: I'm just curious to know why we don't just treat child support, failure to pay child support, the same way we treat the failure to pay taxes;

the same kind of fines; the same kind of procedure. In my view it's tax fraud. It's tax evasion because what, in fact, often happens is either the family is made to suffer in some egregious way or the state winds up picking up the errant parent's responsibility. It becomes a hidden tax on the rest of the state. Why don't we treat this the way we would treat non-payment of several thousand dollars worth of taxes?

MR. HOREL: I think that the whole process in which this is immersed is basically a civil case in the courts. It's not an administrative matter to determine how much child support is owed and then the enforcement being in essence a criminal kind of matter, has really made it complicated and difficult and lengthy to deal with and process. I would agree with you that we should, and as the Justice said earlier, move this out of the courts into an administrative process, more like a tax.

ASSEMBLYWOMAN EASTIN: I think you could make the case that the fine could then be left with the county to be used specifically for these purposes in terms of enforcement, so that we didn't always do short-shrift at the counties in terms of that kind of enforcement. I'd get the bill like city attorneys and district attorneys keep fines charged to unlicensed contractors and now they're getting a lot more prosecution of those people because the county says we can afford to do it now that we get to keep the fine. Well, if you made the fine similar to that which would be paid for non-payment of taxes and gave it to the county fund for use in child support family courts, you might actually have some incentive.

MR. HOREL: One of the complications, too, is the tie to AFDC. In the federal law you can't account for or deal with the child support funds without knowing the AFDC status of the children by month and the accounting becomes incredibly complex. Once you collect the money, you can do it just like taxes and put it in the general fund. That might be something that we would want to talk to them about, as well. It would simplify the fiscal side of it so that the determination with just how much child support was owed and collecting that and putting it wherever it belongs.

SENATOR MORGAN: Share with us...I know you said you had testimony for us but, how confident can we be, sitting here today, that we aren't going to be penalized by the feds? I mentioned at the beginning of the hearing the possibility of as much as a hundred million dollars. What can you share with us that will or won't add to our confidence level?

MR. HOREL: OK. The Department has made a very dramatic effort in the last 18 months to get us into compliance in this state...

SENATOR MORGAN: How much time do we have?

MR. HOREL: The follow-up audit is occurring right now. The period of time that it was covering was through April. The counties have made a massive effort to get their cases up to date, to come into compliance. They've taken very seriously the sanction

and they've worked very hard with the state. I think, as Wayne pointed out, Los Angeles county, in that part, when the auditors went to that county, Los Angeles county did pass the audit. What he didn't mention was eighteen months ago Los Angeles' compliance rate was around twenty percent of the cases they passed because they were in excess of ninety percent of the cases in compliance. Sacramento county, which was having difficulties, and you might have remembered the LAO report reference, passed with one-hundred percent of their cases in compliance, every single case.

SENATOR MORGAN: What about San Mateo county?

MR. HOREL: San Mateo. We've not been to San Mateo. The major ones we still have left are Santa Clara and San Diego, that there's some concern, but it appears to us at this point, we're comfortable that we're going to pass this to follow-up on.

SENATOR MORGAN: Good. Do you have anything else you wanted to add?

MR. HOREL: One more project I want to talk about is the credit reporting system. We have instituted the largest child support credit reporting system in the country. We piloted it in two counties. It works very well. It's going to be statewide within about six months if we phase in counties across the state. Everybody who has a child support obligation will be reported to the credit reporting agencies, whether or not they're in arrears. We've found that in states that have done this, that there's a dramatic improvement in child support payment rates. People are inclined to make their child support payments on time if it's going to affect their ability to get their boat or their car or whatever they're trying to finance. We're very pleased that this has gone as well as it has.

SENATOR MORGAN: In the timeline on those two pilot counties for deciding whether or not to expand it to the other fifty-six counties, is what?

MR. HOREL: We've decided to expand it. We're moving.

SENATOR MORGAN: OK. So you're already preparing to do that, which takes money.

MR. HOREL: What's that?

SENATOR MORGAN: It just takes money.

MR. HOREL: It just takes money in all cases, time and money, getting the files together. You have to be very responsible about the fact that you report somebody to the credit agency. You'd better make sure you maintain that data and keep it accurate because it's going to have a profound effect on these people. So the work in terms of getting the data initially and keeping that data updated is very important.

SENATOR MORGAN: Otherwise, they'll call us and say, "But I'm paid."

MR. HOREL: You'll hear from them and so will we.

SENATOR MORGAN: Good. Any other questions? Thank you very much, Mr. Horel. We appreciate your being here. To close out the formal testimony today is someone with experience also in the family support area, Steve Kennedy from Humboldt County and he

is also President of the State Family Support Council. Welcome.

STEVE KENNEDY: Thank you, Chairperson Becky Morgan and the Women's Caucus. You asked me to address the aspects of Humboldt County's so-called success in child support enforcement program. Also, I've been asked to comment on the criteria that states should use to evaluate the performance of different counties and to provide general recommendations, both administratively and legislatively, that may improve the statewide child support enforcement program. I don't think I can do that all in ten minutes, but I'll try. First, success of a county and child support enforcement is always in the eyes of the beholder. On certain days, if the District Attorney has received a nasty letter or phone call or two, you may not have a successful program. If the State Department of Social Services receives timely statistical reports or you provide an audit list at the drop of a hat, you're considered successful. The Legislative Analyst's office believes the most successful program is the one that is high on AFDC recruitment rates and also improving collections. As long as you're investing county and federal money, cost to collection ratios mean nothing to the LAO. The federal government has a very specific performance scoring system that is updated every two years and is applied statewide. All cases have to be well documented. We spend operationally about forty percent of our time documenting actions, making sure that we have implemented all federal mandates, having very specific written procedures. Also, the feds are concerned about the cost since they are losing money on the program and believe states are gaining approximately the same amount they are losing. It's over three-hundred million dollars. In the eyes of the custodial parent, getting a child support payment on a regular basis, a payment that is substantial enough to help them get off the rolls or not having to apply for AFDC in the first place, is probably the biggest measure of success. The absent parent may feel that we're successful if we haven't located him/her, if we fail to determine paternity or we failed in our operation of dealing with him/her. However, I think a lot of absent parents feel that we are successful if we deal with them on a fair basis.

Other important elements that I think have helped in our so-called success, and I don't think Humboldt County is successful, because I don't think that we are collecting what we should. We should probably be doubling our collection effort. We do have stability of staff. We have a very low turnover rate with a very dedicated staff. Automation with caseworker performance reports has been important. We've had that for several years with each family support officer knowing where they stand in collections each month. The setting up of a budgetary fund that is not affected by the county general fund, hiring freezes, equipment and traveling freezes, is a very important aspect of success, I believe. Trying to be proactive rather than reactive in what we are trying to accomplish. For example, we advertise our service on community access

and also we have a paternity education program that -- I believe you may have a package that the 1984 Governor's Commission recommended it -- the Department of Social Service failed to implement because they felt it was too controversial.

For the past several years, modifying court orders upward has also been a very successful effort on our part, I believe, and other counties have also done this. Merced County -- the Administrator there, Tim Dixon, made a presentation in Arizona regarding the modification process and they've also been very successful in raising their collection totals.

You also asked me to respond on the criterias the states should use to determine performance success of different counties. I really can't tell you what method is the best method. I know in the Code of Federal Regulations under 305.98, that there's a very specific area of what the federal government does for, on a statewide basis, but we've looked at it, the California Family Support Council, on the basis of ranking a performance based on other things such as the total AFDC recruitment over AFDC expenditures or on total collections over cost. We've also even looked at weighing or having certain selected environmental variables such as unemployment rates being determined on a comparison basis between one county to the other. We never came to a conclusion because there was a lot of in-fighting on that aspect. We do have AB 1033 which is currently, I think, to be heard in the Senate Appropriations next week. This bill includes a performance-based incentive system that will reward counties based on specific actions taken and full compliance with state and federal requirements.

You asked me also how we can improve on the performance of the state. One of the major problems we have right now is ensuring proper funding at the state level of certain program operational areas that are very, very important to us. We have over thirty percent of our caseload in the locate status and we currently have the California Parent Locator Service, who has been under a five-year contract. Five years without any type of cost of living increases in that contract, and the Department has asked the counties to help bail out that agency, due to what I consider the Department of Social Service's failure to underfund that contract. This is truly unacceptable.

I personally believe, and I've had this thought for probably over eighteen years on this, that we're in the wrong agency. We don't belong under the Department of Social Services. This is a law enforcement agency, or at least it should be, in an area that will have strong focused leadership and child support enforcement. We should be innovative and effective and, instead, the state has been slow to react to problems and federal mandates. Staff turnover in the Department of Social Services, in the Child Support branch, is great and program help is minimal. Communication problems have resulted in regulations being proposed and finalized without our knowledge. They do not have the expertise to respond successfully to law suits or negotiate properly with

the federal government over compliance issue. Planning and foresight is a new experience with the SACHS project which should have been started in 1985. All counties should have become automated by now. DSS has failed to treat this program any differently than their food stamp program or their refugee and immigration program grants. The director does not want to treat child support enforcement differently, even though we have the greatest potential of reducing public expenditures related to welfare. The current enforcement program has saved close to one-hundred million dollars for the state last year in welfare recovery and this doesn't include unmeasured cost avoidance.

Third, I think we need to protect the child support enforcement program financially -- not only at the local level, but also at the state level. We now have a major funding problem. My understanding recently is that we now have the legal services of the Department of Justice. They are going to have to do some cutting of their funding so the individual counties will not be receiving what they should be receiving in legal advice from the Department of Justice. I think, also, we need a very, very important area is putting together some type of minimum training standards for child support enforcement personnel and let's also include the judges. Create a statewide training program so each county is standard in their approach. All the regulations in the world won't standardize a program. Investment and training will have better results. They went through this process, I believe, many years ago with the peace officers. They did put together a Peace Officers Standard and Training Program and we may want to do the same thing. Promote and develop a statewide paternity education program targeting the male student in understanding his legal responsibility. I think that's also very important.

Six, help in obtaining the necessary legislation to promote the participation of under- or unemployed non-custodial parents in employment and training services. There's currently demonstration grant money available. Mandate an employer reporting project similar to that enacted recently in the state of Washington. The cost-benefit ratio has worked out to be one-to-three return on expenditures. One of the major problems that we have in our program right now is we get lists that shows where somebody is employed, but if we're six, seven months behind on any paper trail -- if somebody's jumping from job to job, we'll end up never catching them. I think that it's important that we try to enact the Washington statute that is available and I think you may have a copy of that.

We need to rewrite Section 270 of the Penal Code to ensure that felony filings for failure to provide child support takes place.

Number nine, require the Department of Motor Vehicles to collect social security numbers for support enforcement agencies.

Ten, authorize the Department of Justice to obtain public utility customer service information for support enforcement agencies.

Eleven, expand support enforcement agency access to timely employment and financial institution information.

Twelve, require all state agencies that issue any license, permit, motor vehicle registration or transfer of title to a motor vehicle to not issue a permanent license to any applicant who is not in compliance with a child support order.

Thirteen, provide for the county District Attorney to ensure that they receive reimbursement from the state for the non-federal cost in carrying out medical support enforcement.

I believe all those proposals will not only improve the statewide program but will also result in the state of California becoming an important leader in child support enforcement. The package that I provided to you is a legislative proposal, which our legislative chair will be asking for sponsorship on a lot of these issues this coming session.

SENATOR MORGAN: I think it's in our packets. It says "Draft 7/24/90" at the top. Is that right?

MR. HOREL: Right. That's correct. That's right.

SENATOR MORGAN: You're saying that this packet is potential legislation, draft legislation, for the thirteen ideas you just presented?

MR. HOREL: Most of those. There are some miscellaneous ones in there and I've added a few concerning the educational and training aspect which is not included.

SENATOR MORGAN: OK. I think I am going to have to ask you to, if you're not finished, to summarize at this point. You've given us some great ideas, some bold comments. Senator Killea? OK.

SENATOR KILLEA: The judge had recommended doing away with the custody ratio as part of the calculation. Do you have a reaction to that?

MR. HOREL: When we got the Agnos standard, I saw that as law and we ended up with an algebraic formula in the statute, I knew something was wrong. I think what you need to do is go back -- I'm not going to answer your question directly. I think that when you get into the custody aspect and the shared custody, we do have some problems with the, if that's what you're addressing at this point. Is that, did I understand your question?

SENATOR KILLEA: Well, basically -- at least the note I made to myself was that Justice Cordell suggested eliminating the time-sharing factor in the calculations of how much child support to award.

MR. HOREL: Well, I think that it will make it simpler and I would say that she's got a good point. I think the problem is that you've got a formula now, that we have

problems with individuals that are not employed. They may be living with somebody with all kinds of money, a girlfriend that we cannot calculate. There's all kinds of problems associated with the Agnos standards and I think that it should be revisited and I think a total rewrite should take place.

SENATOR MORGAN: OK. That's a fairly major task, I suspect. But I appreciate your recommendation. Thank you so much for being with us.

SENATOR WATSON: Madam Chair.

SENATOR MORGAN: Senator Watson.

SENATOR WATSON: I'd like to introduce somebody in the audience that has played a major role in gathering the data that we put into our Judicial Council report and that's Bobbie Welling who is the project director. And, what might be helpful as a result of the hearing today, Madam Chair, with the consent of the Caucus is to, number one - get a copy of that report and I have it. No one will have time to go through it all but it is a summary and have the Women's Caucus send a support letter to that. Bobbie, if you won't mind, Madam Chair, can you update us on the procedure relative to the report at this time.

SENATOR MORGAN: All right, and we do have five members of the audience that have asked to address us, so I am going to have to -- just give us a very quick update.

BOBBIE WELLING: The Gender Bias Report with its sixty-eight recommendations, has been distributed for comment. A special ad hoc committee of the Judicial Council is considering those recommendations and having joint meetings with the advisory committee on Gender Bias and others. Although the comment period is officially over, I think the last basic meeting for consideration is September thirteenth through fifteenth, and so, if the Women's Caucus would like to participate in that comment, I'm sure that any letter of comment would be received. It does appear to me, having listened to the testimony here today, that there is a great deal of similarity with this testimony and that collected by the Gender Bias Committee and so, I would simply commend that to you, if you do wish to participate in the comment period.

SENATOR MORGAN: Great. Thank you very much.

SENATOR WATSON: Bobbie, can we get a copy of the summary sent to the members?

MS. WELLING: Absolutely.

SENATOR MORGAN: We'd appreciate it. Thanks a lot. Members, as I said, I had invited public testimony. I know the time is getting late so, if each member just speaks -- and I know it's probably a handicap -- maybe two or three minutes, because we must be out of here by five. Sue Spear is representing SPUNK and, Sue, make sure that we all know the acronym.

SUSAN SPEER: My name is Susan Speer and I am President and Founder of the child support advocacy organization called Single Parents United and Kids and we started over

eight years ago. We deal with custodial parents who either do have court orders and who are having problems collecting them or who need court orders. What I'd like to focus on are areas of problems and some suggested solutions.

The first problem that I would like to address is one of education. What we find is many women that need to get a divorce don't know what is supposed to happen on child support. They don't know that they can get a wage assignment. They don't know how much child support they're supposed to be ordered. Fifty percent of the people in California file on their own. Fifty percent have the attorneys. So, you've got fifty percent of the people filing on their own that don't know what to do. The other fifty percent we have found that have attorneys, the attorneys don't tell them what their rights are. There's one California child support handbook in the whole state which has been put out by the Department of Social Services. It's supposed to be given to people who file for divorce that have children. What we found is that it isn't. It's supposed to be given out to welfare custodial parents. We found it isn't. They're literally getting nothing on child support that tells them what their rights are. We recently put out a pamphlet on child support and it tells them what they themselves can do. I find it real scary in 1990 -- this is the only thing in the whole state of California that can tell somebody they can get a wage assignment on their own or they can do a property lien or they can do a bank levy or there are alternatives. I find that real scary. The State Bar does not have any kind of pamphlet on child support, at all. I find that very scary. They have pamphlets on custody. They have pamphlets on divorce. Nothing on child support. I think we need to educate women, and especially in the area of paternity, also. Many women still believe that we have common-law marriage, or believe we have it. We've never had it. They don't understand that they need to establish paternity and get a child support order. We need to educate people.

One of the other suggestions I have is on the District Attorney's office. One of the problems that we've seen is that there is no limit as to the number of cases each child support caseworker can work. In LA county, for instance, we have approximately six-hundred child support caseworkers. We have two-hundred and fifty-five thousand cases. Figure that out. That's four thousand cases per worker. There are many other counties that have, each caseworker works fifteen-hundred to two thousand cases, per person. I don't know anybody that can do that. My understanding is welfare workers are limited to so many cases. Child abuse workers are limited to so many cases that they're allowed to work. Why is there no limit on child support cases that a caseworker can work? I think that's something we need to do. I think all the child support cases should go through the court trustee or one particular agency. One of the problems that we run into is when someone goes to court, the court order is directed to them. When they have to go through the system, that order has to be converted, which

means it goes through the DA's office. There's a delay and it could be anywhere between three and four months or longer, depending on which county you're dealing with.

We need attorneys and judges monitored. The attorney that spoke this morning was very good. My experience has not been that pleasant with judges. They basically do what they want to do and I believe they do what they want to do because they are not monitored. Private attorneys are not monitored. They do not tell people what their rights are. They very rarely get people temporary orders. They very rarely get wage assignments, which is a basic thing in child support.

There are a lot of unemployed, non-paying parents. Under the Family Support Act there are going to be five states that are going to be participating in what they call a Job Training and Education Program to get these non-paying parents working. If they truly are unemployed, let's get them educated, let's get them working so they can pay their support. I'd like to see California as one of those states in that Job Training Program.

Some people touched on denying driver's licenses. I think on the self-employed you need to deny their business licenses. That's a real strong one. Why should they be able to have a business license. If they're not paying their support it doesn't matter if they have a business license or not.

I think there should be automatic increases without going to court. Five or six years ago there was a law passed that allows a ten percent increase and people tout it as an automatic increase. It is not automatic. It requires one to file paperwork and it also allows the other person to get an attorney and people forget that. It allows the other person to get an attorney, and what we have found in almost every case is that the other person will get an attorney. So, unless we have something automatic where it's a certain percent every year, five percent -- I know a few years ago the legislators tried to get ten percent through and that was fought bitterly and didn't pass. But, even if there was an increase of five percent a year automatically, I think that would help.

SENATOR MORGAN: Thank you. I am going to have to call it to a halt and I trust that you will work with California Now or at least have some conversation. I know their effort is to get information out to the public and you have a brochure. The question is how can we get it distributed and who can help you. Thank you.

I neglected at the beginning, while I commended SOR, Senate Office of Research, I didn't acknowledge the two people sitting in the front seat that were so important in getting the report that we had to us and Sara McCarthy and Rebecca Gonzales, I wanted to thank you for your hard work. Josana Berko. I'll apologize if I said that wrong.

JOSANA BERKO: Well, whenever someone struggles with both the first and last name, I know it's my turn to speak. My name is Josana Berko. I'm a deputy attorney general

and I have been doing child support work for the Department of Justice for four years. I've been the statewide coordinator of the the department's child support program for three.

Just a couple of general problems. I know that it is late and that I need to be brief. I want to underscore what was said earlier by several witnesses that this is a revenue producing program. It is therefore ironic that we always are in the position of having to beg, borrow and steal money to make money for the State. The eighty-three million dollars that the Legislative Analyst's office report cites as coming into the State treasury does not consider those funds that are saved by the avoidance of welfare in the first place. I suggest to the committee that it is substantially higher. Then again, you do get what you pay for in this program and, using the Department of Justice as an example, we do two things currently. We have legal services and we have locate services. We currently have about ten people on our legal staff doing child support appeals and inquiries and policy analysis. We have approximately sixty people in our locate shop and the locate effort is the sine qua non of the child support. If you can't find them, you can't make them pay.

We need to automate CPLS, that's the California Parent Locate Service. We may or may not need sixty people to do it, but we certainly need automation. We have made proposals to the Department of Social Services to, and I think they are supportive of our efforts in that area, increase the automation there. We hope to retain the current staffing levels in the Department of Justice. We are currently negotiating with the Department of Social Services to retain our legal services staffing.

I want to take a moment to answer Senator Watson's previous question regarding the deficit in child support payments. I have the recently published U.S. Census Report on Child Support and Alimony using 1987 data which is the latest that I understand is available. I would commend this report to this group and I can make a copy available if you need it. That report tells us, nationally this is, not California, only in sixty percent of the cases are we able to get a child support order. That means forty percent of the cases we don't get an order at all. Of that total, the amount due that was actually paid was only sixty-eight percent, leaving approximately thirty percent of the total of that sixty percent in which an order was established on pay. The actual numbers, Senator Watson, are in the report and I'll be glad to provide them to you.

SENATOR MORGAN: Actually it's, I believe, in the briefing paper that ??? provided us, but members of the Caucus just got that today and we were on the floor.

MS. BERKO: Yes. I know that the Census Bureau just issued this study and it does have a lot of really good information in it.

SENATOR MORGAN: It's this Women's Caucus briefing packet from SOR that does include that figure along with a lot of other good information.

MS. BERKO: Right. Let me take a moment since the briefing papers do not really describe what the Department of Justice does, to familiarize you with what we do currently. With regard to our legal support services, we represent the counties, the prosecutors in the California Court of Appeal and Supreme Court. We handled about sixty-three such appeals last year that included the affirmance of the constitutionality of state procedures for foster care reimbursement and our tax intercept procedures which one of the members rightfully noted is one of the most effective enforcement tools we have. We were able to uphold the constitutionality of taking someone's lottery winnings, as someone else pointed out. We also wrote an amicus brief supporting the position that there is no right to a jury trial in a paternity case, which allows us to expedite these matters and move them along, resulting in the establishment of more orders and more support. We think a significant victory to establish that interference with custody and visitation issues should not be a defense to the non-payment of support. This is the most-heard defense that you'll find in court. It is often abused. Our position has been that there are other mechanisms available to those absent parents who feel their custody and visitation rights are violated, that should not interfere with the flow of needed dollars to children. We also provide policy analysis on child support laws and regulation to district attorneys, the Department of Social Services and the Federal Office of Child Support Enforcement, as well as child support agencies from other states. We investigate and respond or refer as appropriate, public inquiries regarding California cases or our California cases being handled by other states. We handled over a thousand such inquiries last year. We negotiate reciprocal agreements with other countries so that California orders can be enforced there and we then agree to enforce theirs. We service the state's Information Agency under the Uniform Reciprocal Enforcement of Support Act. We operate the state's central registry of interstate cases. This is just a tracking mechanism whereby 4D cases coming into California for enforcement are scrutinized for legal sufficiency and then sent to the county for prosecution. We provide location assistance. The California Parent Locate Service is in the Department of Justice and, as I said before, if you can't find them, you can't make them pay. It can't be underscored how critical that is. When notified, as the statute currently reads, it requires notice by the Department of Social Services. The attorney general takes appropriate action to ensure district attorney compliance with federal and state program requirements. In summary, we hope to retain our current level of legal and locate services, and we are available to answer any questions that the committee may have. We applaud your effort and wish you well. Much needs to be done. Thank you.

SENATOR MORGAN: Thank you very much. We're glad that you did testify and so we

have identified you and as we move legislation next year, you can probably be helpful. The next person is Betty Nordwin.

BETTY NORDWIN: Good afternoon and I appreciate the opportunity to speak. I will be very, very brief. My background is I'm an attorney and I am director of a legal services program in Los Angeles, which I believe is in Senator Watson's district, and it is a family law program. Constituency is eighty percent women, twenty percent men. The majority of all of our clients are minority. In addition to the experience I've had there for four years, I was in Massachusetts in private practice and about a third to half of my practice was family law.

SENATOR MORGAN: How recently were you in Massachusetts?

MS. NORDWIN: I was in Massachusetts from '80 to '86 and I was in private practice from '82 to '86.

SENATOR MORGAN: Our first person to testify, Ms. Keuhl, had mentioned Massachusetts as a system to look at. Would you...

MS. NORDWIN: I think that's true.

SENATOR WATSON: Just an aside on that -- I was in Massachusetts in '82 at the Kennedy school with Dukakis and the point he made is that the welfare system has to be revised and he introduced his ET program and it became the system for Massachusetts, which I patterned legislation off of, which didn't pass, but we have GAIN. Are you familiar with our GAIN program?

MS. NORDWIN: I am familiar with it, but not in detail. I defer to others...

SENATOR WATSON: I just wanted to make that point because Massachusetts has been taking leadership in this regard and their program is working well, I understand.

MS. NORDWIN: Right. I'm just very conscious of time and I'm determined to say everything I came up to say so...I feel that I am speaking to you as a person from the trenches. I have only worked with working poor and poor clients most of my legal career and I feel there is a sense that I have of the gap between Sacramento and Los Angeles that's more than the seven hour car ride and I'd just like to communicate a few things to you. First of all, and I'm sorry that Assemblywoman Speier isn't here. On an immediate basis, I mean in the next two weeks before this session ends, I feel the following should be done in the area of child support. I think, as was discussed earlier, that the standard of need that is used to determine the Agnos formula, should be unfrozen so that it can go up and that would affect child support under Agnos for the next few months.

Number two, there's been some discussion in the audience and some lobbying. I believe there's a deep concern, and I share it, that the current child support guidelines bill which is AB 3974, contains a provision retaining Section 4727 of the Civil Code which is the shared custody provision and I, just for a second, want to go

over what the implication of that in a real live math case, and I'll try to do it. In the audience I was figuring out -- if you have a father who is earning \$1,800 net and a mother who is earning \$800 net, which is not uncommon, although it would be high to see in our office, you get a total net of \$2,600. Under the current existing Agnos formula, if they had one child, you would apply a percentage of eighteen percent and come up with a total support obligation between the two parents of \$468. However, the current Agnos formula says you don't look at that. You look at whatever is less. Either it is the AFD standard for one child or the total combined parent income with the percentage applied. In the case I've just given you where you've got a net income of both parents with the percentage applied of \$468 and the AFDC standard for one child of \$326, you would take \$326 to which you then apply the ratio of father's income to mom's income. So, you take \$326, you then say well, dad's income to mom's income is a ratio of fifty-six percent to forty-four percent. You then come up with dad having a support obligation of \$183 and mom having a support obligation of \$143, that combined total being \$326 to which you then add the shared custody concepts. So, you come up with \$183 and you said, dad testifies that he sees the kids and mom says dad sees the kids two days on the weekend from Saturday at 9:00. You then come up with less than \$183, applying the percentage. I think it's an incredibly insidious formula that nobody understands. It took me, I think, two years to understand really what the implications are and that the bottom line, final debit that comes out, should come out from the few, for the two year period that the Judicial Council's interim guidelines are going to be in effect and I'm very sorry that it was put in there. So, that would be my immediate recommendation.

My other recommendation, since you've heard all the background I think you need to hear, is the following. On child support guidelines, I think that the support guidelines need to be overhauled and I do believe that the Judicial Council and the advisory committee that they're going to be working with should have a clean slate to look at because the time has changed radically in the 1980's and I think they should not be bound by the existing formulas.

Number two, I think the only thing I would say that, in my experience, child care expenses and health care expenses are so repetitive and so high, that they have to be put into some basic formula. In other words, you don't treat child care and health care expenses as an exception in a child care formula. Every parent out there has a child care problem and every parent out there has health care expenses and you've got to build that into a basic formula.

I feel you've heard so much about that that I'll just go on to my other points which I think you've heard a little less about. I would strongly endorse the recommendation of Steve Kennedy from the Family Support Council, that a study, I would

put it in this form, that a study be commissioned of whether the Department of Social Services should remain the base (?) for the agency and, to that end, I had written an eighteen page treatise on the subject which I sent to Assemblyman Friedman since he oversees the DSS budget on the Assembly side and had indicated some interest. I will leave you with a copy of that. I met with him last week and I think he is struggling to figure out the format into which to bring that issue. But I, for reasons somewhat similar, feel that DSS has been a very ineffective agency. We do need leadership. I would not necessarily agree that it should be in the attorney general's office, but I think a study is needed. I'm going to leave you a copy of the survey that the Family Support Council did on whether DSS should stay as it is and, if not, who should get it. I'll leave you both of those.

Separately, I would make the following recommendations also, that Mr. Kennedy also spoke of legislation sponsored by the Family Support Council which basically deals with areas of child support that go to, making it easier for the district attorney's office to locate both the bodies and the money and it's a package of legislation. My understanding is they're introducing it next year. It has to be tightened up language-wise but it is, I think, to be strongly supported by the Women's Legislative Caucus. The counter-attack on their legislation is that it violates the due process rights of the obligors and the example I'd like to give -- one of their pieces of legislation suggests that, if I am to continue with my license as an attorney and I owe child support, that maybe when my name comes for, on the State Bar rolls, it's cross-indexed with the DA's bad guys list and I get a letter from the State Bar saying, "We show that you owe \$2,000 in child support and we can't issue your license to practice." I think that's a quite reasonable proposal. It happened to me with my auto registration. I couldn't get my car renewed because I owed \$10 to the city of LA. But, it was really pooh-poohed, because somehow it was violating the rights of obligors and I think you absolutely have to put in due process protections so that people have an opportunity to contest the DA's figures, but it is not unreasonable to have that kind of legislation. I think it should be looked at as a serious package of legislation.

The last couple of things I'd just like to say is, if you absolutely cleaned up the child support guidelines and you absolutely got every judge committed to child support enforcement, you still have a large population of people who are employed under the table, who are self-employed and who move around from state to state and they are, I have a feeling that if we had numbers on them, they are a fantastically large part of the population and in a place like LA where everybody's under the table, all the wage assignments in the world and all of the child support guidelines aren't going to help you. I think the Legislature needs to look at that as a separate issue at some point.

Maybe not immediately, but within the next few years. Lastly...

SENATOR MORGAN: Senator Watson, did you hear that comment that in Los Angeles almost everybody's under the table? (laughter)

MS. NORDWIN: Lastly, I would just like to say that in the dialogue between the Legislature and the public, I think the Legislature needs to hear more voices on the issue, I would say, in general, of women's issues and, in particular, poor and working women's issues than it currently has. In being involved with legislation for the last two years, the only organized voices that the Legislature hears that I've seen is the Family Support Council and the State Bar of California, who now is under a gag order because of the case, but that's another story. But, the Legislature has not been able and doesn't hear from legal services programs in the area of family law. The legal services community is very active in other areas of public policy but, and I'll give you an example and then I will...

SENATOR MORGAN: I don't think we have time, unfortunately. But, we'll keep that in mind and I'm sure members of the Caucus will probably be introducing legislation for next year and can use your services...

MS. NORDWIN: Thank you.

SENATOR MORGAN: ...and thanks for the material that you'll leave with us. You can just have the sergeant take them and he'll get them to us. Alexander Moditine.

ALEXANDER MODINE: Modine.

SENATOR MORGAN: Modine. I'm sorry. With the father's perspective.

ALEXANDER MODINE: There had to be at least one.

SENATOR MORGAN: Absolutely. Welcome.

ALEXANDER MODINE: I appreciate the opportunity to be here. Thank you very much. First of all I want to say that I feel strongly, a comment was made here earlier that I can't understand myself, why child support is so unimportant. Fines -- I'm a very involved parent. I'm divorced, obviously, and I have a five and one-half year old daughter. To me, it's almost like mutilation. You're stunting the child's growth and it seems like the more you can get away with, the better. That's just the way the attitude -- I think something definitely -- I'm all in favor of collecting child support. I have always paid my child support. I always will. I'll borrow if I have to do it but I believe there are also some...

SENATOR MORGAN: I commend you for that because there aren't enough of you around.

ALEXANDER MODINE: Unfortunately, I feel that there are a lot of flaky fathers out there that make it hard for the responsible ones and I've suffered quite a bit. I've suffered quite a bit and my circumstance is a little bit unusual because my ex-spouse is married to her divorce attorney. I brought those two together. I'm a real nice guy, I guess. But, I take issue with some things and there are some things that I

think -- there's some real inadequacies. It's mentioned typically that the mother ends up with less income. The fathers usually make out like a bandit and so on. I feel that stepfathers are reaping the benefits of what responsible fathers do. I pay. I have to pay the income tax on the money I pay and yet he gets the tax deduction. I don't think that's fair. I think that needs to be addressed. That was never mentioned. Talk about incentive. You're talking about all these punitive things. ??? deductions. For the child, there's no deduction for child support. I don't get the dependency deduction and I've already paid him enough. I paid my attorney's fees. I paid his attorney's fees by court order and now I'm paying the taxes on the child support too and I pay for my daughter's college. I'm putting \$1,100 a year away and it'll be more. In my situation, my ex-wife wrote hot checks so she can't budget money. I'm not trying to criticize or go into that thing, but there are situations like that too and what I feel is if there's so much standardization and guidelines and rules, we entrap the ones that are responsible. I feel entrapped. I feel there are many attorneys who, maybe they're competent but they don't show it. I was all in favor of the judge's comments about keeping attorneys out. So, well, I think you see enough, I'm trying to condense what I'm trying to say here, highlight just the things I want to bring out. I believe too that visitational interference causes a lot of fathers, in fact I know that, causes a lot of fathers to not want to pay child support. Now, if I had, I have had plenty of reasons. I was accused of child molestation, had restraining orders served on me just to get me upset, and it did. And, of course, I didn't know at the time that my ex-wife and her attorney were involved, but I couldn't work. I work, I'm self-employed. If I don't work I don't get paid. Simple as that. Commissions. I couldn't see people. I was so frazzled. I remember my attorney called me one evening and said, "Now they're going to file charges about child molestation." You're guilty 'till you're proven innocent, basically. I was just wiped out. I couldn't work. My income went down. I had \$15,000 in a six month period in savings that I had built up, probably from before I got married. Totally wiped out. I couldn't really work during that time and now I, it's better fortunately, because I give in a lot and what happens typically, I'll, I see my daughter every day at school. I have alternate weekends. I have her Wednesday evenings. Actually, my situation is pretty good in comparison with many fathers that I've talked to but I called up, my ex-wife calls up when I have my daughter to talk to her, fine. I call her up, "I'm busy right now". Slam goes the phone. You think I feel like not paying child support? Yes, but I do because I have to. I have incentive. I'll show you incentive. That's her right here.

SENATOR MORGAN: Great.

MR. MODINE: OK. That's all I need. Unfortunately, what I think you're facing is legislating morality and that's impossible. You've just got to enforce it,

unfortunately. I don't envy that job. But, I just want to express my view, my side. Responsible, involved fathers really do incur expenses. I pay \$360 a month child support, \$1,100 a year in college expenses, ballet, uh that's her ballet outfit, she just had that, \$400-something-plus a year. I have three quarter million dollar life insurance on me which goes in a trust for her. I go out to eat. I don't cook. I'm a lousy cook. So, it costs me more. I don't go out to fancy restaurants. So, there's a lot. I spend a lot more than my ex-wife ever will. I still don't get the tax deduction.

SENATOR MORGAN: What about health insurance? Who covers the child for that?

MR. MODINE: I cover, I pay that too. I pay the health insurance.

SENATOR MORGAN: You pay the health insurance on your child?

MR. MODINE: Oh, yes. My ex-wife doesn't even pay half the medical bills, half the time. She doesn't want to.

SENATOR MORGAN: And yet, the step-father is getting the deduction...

MR. MODINE: Sure.

SENATOR MORGAN: ...on his taxes because they live in that home.

MR. MODINE: Sure. She gets it. He gets, now she's also working under the table, having income. She quit voluntarily before the hearing so I'd pay more child support which I don't think is right and, by the way, one of the mediators involved said...

SENATOR MORGAN: Senator Watson, did you have a question?

SENATOR WATSON: I'm just going to interject something here. We heard this kind of testimony and when we talk about the Gender Bias we're not talking about just towards women. Most of it is because ninety-five percent of them are custodial parents. We also heard this testimony in terms of men who are responsible and want to do the right thing. Our recommendations are gender neutral because we recognize the problem that the responsible out-of-house spouse has, and we're very sympathetic to it. We're also trying to get spouses to do what is right and responsible, so you're not out there by yourself.

MR. MODINE: I appreciate that. I recognize that, but in practice, what's out there, what's happening, what is dispensed, it doesn't work out that way. I want to add too, the inequities in income between male and female are not because of divorce. They're there because of the system. I think you need to remember that to. I, for example, work. I basically live my life around my daughter. I work about sixteen hours a day and I'm wiped out when I finish working. The rest of the time I have my daughter and I have a son who is twenty-four years old -- I had a little gap in between there -- terrible lapse of memory for a while. But, he's got his problems. He just got married so I'm trying to do what I can to work with both of them. My situation might be a little bit unusual. I'm not trying to heap glory on myself or any of that,

but there are others -- there are lives. It's not just numbers and statistics and collections and all that. There are other innocent parties that get involved in there too and you have to give some consideration there too. When you get too standardized, guidelines and rules, no discretion, no individual attention to some other details that are very relevant, there's going to be miscarriages of justice. This might sound a little extreme.

For those mothers who interfere with visitation, and that's very easily done because all she gets is a slap on the wrist, so to speak. If you go to court and the father has to initiate the action, get an attorney, I can't afford to do it anymore. So, I just have to accept it. When she just hangs up, doesn't want to let me see my daughter, she's late, I'm never late. Now, that's me. That's my background, I guess. I believe in being responsible and punctual. What can I say, but if either one is wrong, I believe there should be some heavy penalties. If necessary, if he doesn't pay child support, after repeated offenses and there has to be some due process. That often isn't done. Put him in jail or something. Have him go to work, finish work, go to jail. Get up in the morning and go to work and pay for the room and board. I mean, that sounds extreme, but -- probably a lot of people are calling me on that -- on the other hand, give some incentives. Enforce the visitation for fathers. I don't know how can enforce it. The slap on the wrist situation is very common. I know of cases where attorneys have been negligent, perhaps, in putting into the child, or the divorce order that neither parent can take the other one out of state. I know of several friends of mine, he has two children he hasn't seen for two years. They're back in New Jersey. Another one, the last he heard, she's in Alaska. He's making payments to the district attorney's office. He doesn't even know where his daughter is. Now, that's incentive not to pay, but...

SENATOR MORGAN: Mr. Modine. You raised the issue of the tax. Do you have some other specific suggestions that you think would, could be solved legislatively that you just want to summarize with.

MR. MODINE: I do like the Judge Cordell, was it, about keeping attorneys out of it. I think, sometimes I kind of imagine a little conversation going on, "Well, Joe, how's your case going? How long do you think your client can keep paying?" Well, maybe I'm being too extreme on that. They drag it out sometimes, deliberate, it seems. Maybe I'm being a little facetious but the idea of an advisory panel, perhaps because there is going to be some gender bias, let's face it. It's being realistic. It shouldn't be there. But, maybe have a panel of two, a male and a female with this computer printout I believe she mentioned. This is what it looks, if I read it right, like your situation could turn out to be like. Let's settle this in a, instead of an adversarial situation, she commented on that quite a bit. Let's see if we can get you

to agree on this one thing because you have to live with this thing the rest of, at least for the next twenty years.

Well, first I believe college should be provided for I believe, beyond age eighteen. I have no problem with that. I'll do it anyway. It would be nice if I got some help from the other side but, so what, it's my daughter. I believe in firming things up but I think there has to be some fairness on the other end, especially those who are, those fathers who are, the few and minority that are involved and that, that are responsible.

SENATOR MORGAN: I appreciate your testimony. I know you've spent the afternoon with us.

SENATOR WATSON: Did you say you have an organization, Fathers United, or something like that?

MR. MODINE: Oh, I've written to several. Some of them I think are, it seems like it's male versus female. I don't agree with that. I think the child is in the middle and the child is the most important. That's the future of our country, the moral fiber of the country being wiped out.

SENATOR WATSON: Visitation rights, too, probably rank equally with child support. I've heard this over and over again that...

MR. MODINE: There's a lot of abuses there.

SENATOR WATSON: A lot of the spouses speak of the abuse in visitation rights.

MR. MODINE: Oh, sure. Oh, sure. I had twice those injunctions. For three weeks I couldn't see my daughter. I suffered. I thought it was hard. I love my daughter. She puts her little arms around me and says, "I love you". Boy, that brings tears to my eyes. That's all the incentive I need. But, when a father's prevented from that. I need my daughter, for example. I think fathers, mothers need their children, I think. You're mothers, most of you. Fathers need them too. There's flakes out there, unfortunately. I remember at one of the service clubs I belong to, I gave a talk about this and got no response...

SENATOR MORGAN: I'm sorry but we do have one more speaker and we're going to lose our audience. I appreciate your being with us. Thank you for your perspective.

MR. MODINE: OK. I'm done. I think I got my points down. I appreciate it. Thank you.

SENATOR MORGAN: Al Tegliia. Al, you're representing the supervisor today or your committee?

AL TEGLIA: No. Senator Morgan, I am representing Mary Griffin, Supervisor Mary Griffin. I'm Mary's legislative aide. I want to thank you for the leadership in this area. I picked, by chance, when we were at your office talking on mental health, this meeting notice and I brought it back and I thought it was important that we be here and

hear what's being said. I'm the most unqualified person to talk here. I know very little, but I am at the receiving end of a telephone call from a desperate mother who usually represents a hungry child who needs medical attention and I concur that there needs to be a more sophisticated system developed, but I hope it's not so sophisticated that mothers and fathers can choose (?) it to take care of themselves and their children.

I'd like to offer to you that if you'd like to hold any local meetings and bring the jurists and the district attorney's office to those meetings along with the press, I would volunteer the services of our office to help you.

SENATOR MORGAN: Thank you.

MR. TEGLIA: Thank you.

SENATOR MORGAN: If you have a way of getting the interest of the media we welcome that too.

MR. TEGLIA: Well, we'll do all we can on a local level for you.

SENATOR MORGAN: Thank you.

MR. TEGLIA: Thank you.

SENATOR MORGAN: To those of you that are still here, I thank you very much for your participation. I think the purpose of this meeting was to start the information flow, to look at what is happening, to look at what needs to be done and see what we, the Women's Caucus, those nineteen members of the Legislature who form that Caucus, can do in raising people's consciousness about the needs of children and the importance of the child support issue, and it is my sincere hope and belief that out of this will come some legislation and will come some direction that will be helpful to children in this state and, with that, I think we will adjourn for the day and hope that those of you that have participated will continue to be in touch with us and also that we can work together on behalf of our children. Thank you.